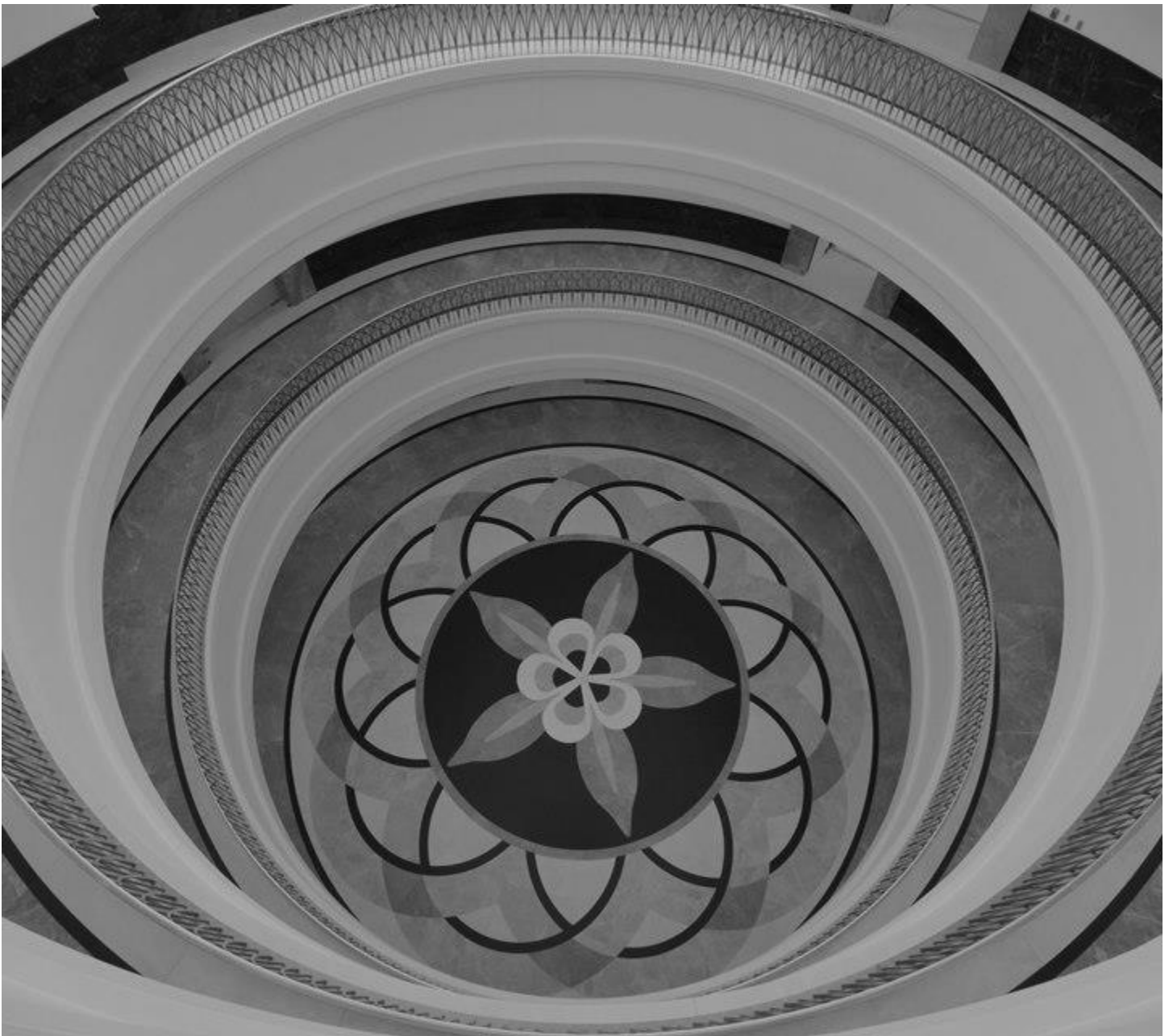




COLORADO SUPREME COURT
Office of Attorney Regulation Counsel
ANNUAL REPORT 2014

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WHO WE ARE

Attorney Regulation Counsel serves at the pleasure of the Colorado Supreme Court. The Supreme Court Advisory Committee assists the Court by reviewing the productivity, effectiveness and efficiency of the attorney regulation system, including Attorney Regulation Counsel.

The Office of Attorney Regulation Counsel works with seven other permanent Supreme Court committees in regulating the practice of law in Colorado. Attorney Regulation Counsel oversees attorney admissions, registration, mandatory continuing legal and judicial education, diversion and discipline, regulation of unauthorized practice of law, and administrative support for the Client Protection Fund. Sixty-two full-time employees work in this office.

JUSTICES OF THE COLORADO SUPREME COURT

Chief Justice Nancy E. Rice

Justice Gregory J. Hobbs, Jr.

Justice Nathan B. Coats

Justice Allison H. Eid

Justice Monica M. Márquez

Justice Brian D. Boatright

Justice William W. Hood, III

SUPREME COURT ADVISORY COMMITTEE

David W. Stark, Chair

Steven K. Jacobson, Vice-Chair

Nancy L. Cohen

Cynthia F. Covell

Mac V. Danford

Cheryl Martinez-Gloria

David C. Little

Barbara A. Miller

Richard A. Nielson

Henry R. Reeve

Alexander R. Rothrock

Daniel A. Vigil

Brian Zall

Justice Nathan B. Coats

Justice Monica M. Márquez

OFFICE OF ATTORNEY REGULATION COUNSEL

James C. Coyle

Attorney Regulation Counsel

Jim Coyle is Attorney Regulation Counsel for the Colorado Supreme Court. Mr. Coyle has been a trial attorney with the Office of Disciplinary Counsel or successor Office of Attorney Regulation Counsel since 1990. Prior to that, he was in private practice. He earned his law degree from the University of Colorado School of Law in 1985.

Mr. Coyle is actively involved on a national level with the National Client Protection Organization, the ABA Standing Committee on Client Protection, the National Conference of Bar Examiners, National Organization of Bar Counsel, National Continuing Legal Education Regulators Association.

Recent committee work includes acting as co-chair and organizer of the First Annual ABA Standing Committee on Client Protection UPL School in Denver in August 2013; NCBE Uniform Bar Examination Administrators Group; National Organization of Bar Counsel (NOBC) Program Committee, Special Committee on Permanent Retirement, Aging Lawyer Committee and GATS Subcommittee; Colorado Supreme Court Advisory subcommittees on Rule revisions (COLAP, CAMP, Student Practice Rule, Provision of Legal Services in a Major Emergency, Rules of Seven, Rules Governing Admissions and Continuing Legal Education, to name a few); and Colorado Chief Justice Commission

Management Team

James S. Sudler

Chief Deputy Regulation Counsel, Trial Division

Jamie Sudler is Chief Deputy Regulation Counsel overseeing the trial division. Mr. Sudler has more than 35 years of experience, both as a private attorney and as a prosecutor in the Denver District Attorney's Office and in the Colorado Attorney General's Office. He earned his law degree from the University of Denver.

Mr. Sudler designed and developed Trust Account School and regularly teaches at the Colorado Supreme Court Ethics School. He recently completed a 26-day trial in Phoenix of the former Maricopa County Attorney and two of his deputies for ethical violations over a period of years. The trial resulted in the disbarment of Andrew Thomas, who was Maricopa County Attorney, and his deputy Lisa Aubuchon. Another deputy, Rachel Alexander, was suspended for six months after her appeal to the state's Supreme Court.

Matthew A. Samuelson

Chief Deputy Regulation Counsel, Intake Division and Operations

Matthew Samuelson is Chief Deputy Regulation Counsel overseeing the intake division, admissions and mandatory continuing legal and judicial education. Mr. Samuelson received his undergraduate degree from St. John's University in Minnesota and his law degree from the DePaul University College of Law. He is a former judge advocate in the United States Air Force. After leaving active duty, Mr. Samuelson practiced as a deputy public defender in Minnesota and was in private practice in Denver focusing in the area of defending municipalities and other governmental entities in civil rights litigation.

He has worked for the Office of Attorney Regulation Counsel since September 2000, and is a member of the Colorado Bar Association, the American Bar Association, and the National Organization of Bar Counsel.

Charles E. Mortimer

Deputy Regulation Counsel, Trial Division

Charles E. Mortimer (Chip) is Deputy Regulation Counsel in the trial division. Mr. Mortimer received his undergraduate degree from Tufts University in 1983, and his law degree from the College of William and Mary in Virginia in 1986. He was licensed to practice law in Colorado in 1986 and spent fourteen years in private practice, before joining the Office of Attorney Regulation Counsel.

Chip has served on the Thursday Night Bar Association Board of Directors, the First Judicial District Board of Trustees and Governor Owens' Commission on Civil Justice Reform. Prior to coming to the Office of Attorney Regulation Counsel, Chip chaired the Colorado Lawyer's Fidelity Fund and served as a Trustee on the Colorado Lawyer's Fund for Client Protection.

Margaret B. Funk

Deputy Regulation Counsel, Intake Division and Human Resources

Margaret Brown Funk is Deputy Regulation Counsel in the intake division. Ms. Funk joined the Office of Attorney Regulation Counsel in 2006. She graduated from the University of Denver College of Law in 1994.

In private practice, she represented individuals in civil rights matters, primarily in the area of employment law. Between 1995 and 1998, she served as President and Vice President of the Colorado Plaintiffs Employment Lawyers Association (PELA). Between 1998 and 2005, she served as a member of the PELA board of directors and was assigned the duties of chair of the legislative committee and liaison to the Colorado Bar Association. She has published several articles in the Colorado Trial Lawyers Association's monthly magazine, *Trial Talk*, and has lectured extensively on civil rights, litigation, and legal ethics.

Assistant Regulation Counsel

Louise Culberson-Smith¹
Amy C. DeVan²
Adam J. Espinosa³
Jill Perry Fernandez
Lisa E. Frankel
Kim E. Ikeler
Erin Robson Kristofco
April McMurrey⁴

Brooke H. Meyer
Geanne R. Moroye
Timothy J. O'Neill
Katrin Miller Rothgery
Catherine Shea
Jacob Vos⁴
Jennifer Wascak⁴
E. James Wilder

Staff Attorneys

Marie Nakagawa

Alan Obye

Attorney Admissions

Susan Gleeson, Director of
Examinations

Melissa Petrucelli, Director of
Character and Fitness

Attorney Registration and Continuing Legal and Judicial Education

Elvia Mondragon, Clerk of Attorney Registration and Director of Continuing
Legal and Judicial Education

Investigators

Trial Division

Karen Bershenyi
Mary Lynne Elliott
Janet Layne

Donna Scherer
Laurie Ann Seab

Intake Division

Rosemary Gosda

Carla McCoy

¹ Louise Culberson-Smith retired in 2014.

² Amy DeVan left the office in the summer of 2014 to become the Executive Director of the Independent Ethics Commission.

³ The Honorable Adam Espinosa left the office in 2015 to become a judge on the Denver County Court

⁴ April McMurrey, Jacob Vos, and Jennifer Wascak joined the office as Assistant Regulation Counsel in January 2015.

Admissions

Michelle Meyer

Deb Ortiz

Inventory Counsel

Carola Rhodes, Inventory Counsel Coordinator

Information Resources Coordinator

James Carlson

PERMANENT COMMITTEES

Board of Law Examiners

Law Committee

Richard Nielson, Chair

David D. Powell, Jr.

John J. Barry

Barry Schwartz⁶

Jennifer C. Fortier⁵

Sunita Sharma⁵

Hon. Terry Fox

Magistrate Holly
Strablizky

John Greer

Justice Nathan B. Coats
(Liaison)

Eric Liebman

Justice Monica Márquez
(Liaison)

Laura M. Maresca

Dayna B. Matthew

Christopher T. Macaulay⁶

Character & Fitness Committee

Brian Zall, Chair

David Diffie, Ph.D.

⁵ New Member, started January 1, 2015

⁶ Term Expired December 31, 2014

Deborah Bianco⁷

Jay E. Fernandez

Stephen J. Hensen

L. Jay Labe⁷

Carolyn D. Love⁸

Linda Midcap⁸

Kelly Murphy

Kimberly Nordstrom,
M.D.⁷

Lorraine E. Parker

Henry R. Reeve

Corelle M. Spettigue

Justice Nathan B. Coats
(Liaison)

Justice Monica Márquez
(Liaison)

Board of Continuing Legal and Judicial Education

David C. Little, Chair

Peter Cannici

Melissa Hart

Hon. Andrew P. McCallin⁸

Dawn M. McKnight

Nathifa M. Miller

Barbara J. Mueller ⁷

David A. Price

Susan S. Riehl

Gordon Scheer

Justice Nathan B. Coats
(Liaison)

Justice Monica M. Marquez
(Liaison)

Attorney Regulation Committee

Steven K. Jacobson, Chair

Mac V. Danford

Diana D. Brown⁸

Doris C. Gundersen, M.D.

Barbara J. Kelley

Steven C. Lass

Carey Markel

Linda Midcap⁷

Kurt L. Miller, D.M.⁷

Lance Timbreza

Luis M. Terrazas⁸

⁷ Term Expired December 31, 2014

⁸ New Member, started January 1, 2015

Unauthorized Practice of Law Committee

Cheryl Martinez-Gloria,
Chair

Elizabeth A. Bryant

Elsa Djab Burchinow

John V. Egan III⁹

Judy L. Graff

Samantha Halliburton

Brenda Mientka

William M. Ojile¹⁰

Anthony J. Perea¹¹

Martha Rubi

Charles Spence¹¹

Board of Trustees, Attorneys Fund for Client Protection

Charles Goldberg, Chair

Katayoun A. Donnelly¹¹

Yoland M. Fennick

Melinda M. Harper

Michael B. Lupton

Hon. Andrew P. McCallin¹⁰

David A. Mestas

Charles Turner

Colorado Commission on Judicial Discipline

Hon. Martha Minot, Chair

Federico Alvarez

Kathleen Kelley

Yolanda Lyons

Richard O. Campbell

David L. Dill

David Kenney

Hon. Leroy Kirby

Hon. Ted C. Tow III

Hon. William D. Robbins

William J. Campbell
(Executive Director)

⁹ Resigned September 25, 2014

¹⁰ Term Expired December 31, 2014

¹¹ New Member, started January 1, 2015



WHAT WE DO

What We Do

The Office of Attorney Regulation Counsel's duties involve all phases of the practice of law in Colorado. The primary purpose behind each of these duties is protection of the public, ensuring that Colorado providers of legal services are competent, diligent, communicative, honest and in compliance with the Colorado Rules of Professional Conduct.

The Office of Attorney Regulation Counsel administers the bar examination, screens each applicant's character and fitness to practice law in Colorado, and enforces all other attorney admission and annual registration functions. The office educates the general public and the legal profession on the underlying duties and requirements contained in the Colorado Rules of Professional Conduct. The office enforces the Colorado rules regarding attorney discipline and disability proceedings and mandatory continuing legal and judicial education. When necessary, the office oversees the handling of client files for attorneys who can no longer practice law.

The Office of Attorney Regulation Counsel also investigates and prosecutes individuals who cause harm to consumers when engaging in the unauthorized practice of law in Colorado. The office assists the Board of Trustees in administering the Attorneys' Fund for Client Protection, and the Commission on Judicial Discipline when requested. A more complete listing of office duties can be found in Appendix A.

ATTORNEY ADMISSIONS

OVERVIEW

Attorney Admissions is the first stop within the regulatory system for attorneys wanting to practice law in the state of Colorado. The office is charged with administering the bar exam and conducting character and fitness reviews of exam, on-motion, and Uniform Bar Exam transfer applicants.

The Director of Character & Fitness, one full-time investigator, one part-time investigator, and four staff assistants review applications for character and fitness qualifications. By addressing concerns with applicants before they become practicing attorneys, the character and fitness process takes a proactive role in protecting the public.

In 2014, the Rules Governing Admission to the Practice Law were revised for the first time in years. The main goal of these changes was to bring consistency to the admissions process.

The new rules expanded the Advisory Committee jurisdiction to include oversight of all practice-of-law functions and made permanent the December 2011 Supreme Court interim order that incorporates admissions and CLJE staff functions into the Office of Attorney Regulation Counsel. They also updated application and character and fitness screening procedures to incorporate the Office of the Presiding Disciplinary Judge into the admissions hearing process and updated procedures for admissions hearings, revocation proceedings, and Supreme Court review. The changes also codified the character and fitness guidelines into the rules, providing clear examples of conduct by which prospective attorneys will be measured when determining their admission eligibility.

Also, 2014 was the second full year that the office employed holistic grading for the Colorado Bar Exam and continued to improve upon the graders' conference, which is designed to increase the uniformity, reliability and integrity of the scoring process by having all answers graded at one time when the graders are focused and calibrated.

Fewer people sat for the both editions of the Colorado Bar Exam in 2014 than in 2013. This reflects the nationwide trend of declining law school enrollment.

BAR EXAM

Attorney Admissions works with the Board of Law Examiners, whose volunteer members provide citizens' advice and direction on the execution of the office's duties. The Board consists of two committees — the Law Committee and the Bar Committee.

The office works with the Law Committee to administer two bar examinations each year, one in February and one in July. The Law Committee is composed of 11 volunteer members appointed by the Supreme Court. It reviews and approves the standards that must be met to pass the written examination.

In 2014, a total of 1,240 people sat for the bar exam:¹²

- 392 took the February bar exam:
 - 281 passed (72 percent pass rate); and
 - 79 percent first-time-examinee pass rate.
- 848 took the July bar exam:
 - 632 passed (75 percent pass rate); and
 - 78 percent first-time-examinee pass rate.

Attorney Admissions also processes on-motion and Uniform Bar Exam (UBE) score transfer applications.¹³

¹² For a detailed break-down of bar exam statistics, see Appendix B

¹³ Colorado and 14 other states currently comprise this Uniform Bar Exam (UBE) compact. Each of these states accept scores transferred from the other states administering the Uniform Bar Exam. The other UBE states are: Alabama, Alaska, Arizona, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington and Wyoming.

In 2014, the office processed 295 new on-motion and UBE score transfer applications:

- 238 new on-motion applications were received:¹⁴
 - 123 on-motion applications were approved for admission; and
 - 5 on-motion applications were denied for admission.
- 57 new UBE applications were received.

CHARACTER AND FITNESS

Attorney Admissions reviews all bar exam, on-motion, and Uniform Bar Exam applications for moral and ethical qualifications. Applicants are required to disclose details about their past including any criminal or civil court proceedings, financial problems, and other issues relevant to the applicants' moral and ethical qualifications.

The office works with the Character and Fitness Committee to review applicants. The Character and Fitness Committee is charged with investigating applicants' mental stability, education, professional experience, and ethical and moral qualifications for admission to practice law.

If information provided by an applicant or obtained during the character and fitness review raises concerns, he or she may appear before an inquiry panel composed of members from the Character and Fitness Committee.

An inquiry panel is composed of five members from the Character and Fitness Committee: four attorneys and one non-attorney. The inquiry panel can either approve admission, defer action until an applicant addresses trouble areas in their application, or deny admission based on the guidelines set forth in the admissions rules, particularly C.R.C.P. 208.1.

Should the inquiry panel deny an application, an applicant can request a formal hearing or contest the inquiry panel's decision. The Supreme Court retains the

¹⁴ The number of on-motion applications received and number of on-motion applications approved and denied don't reconcile because of a few factors. For instance, many applications received don't meet the eligibility requirements such as practicing for 3 to 5 years and are therefore never processed. Also, many applications received in late 2014 were still being reviewed in 2015.

ultimate decision-making authority over whether an application is granted or denied.

In 2014, the Office of Attorney Admissions reviewed 1,621 applications to determine the character and fitness qualifications of applicants:

- 32 applications were forwarded to an inquiry panel:
 - 27 applicants were admitted;
 - 1 case was deferred by an inquiry panel; and
 - 4 applications were found to have probable cause to deny.¹⁵

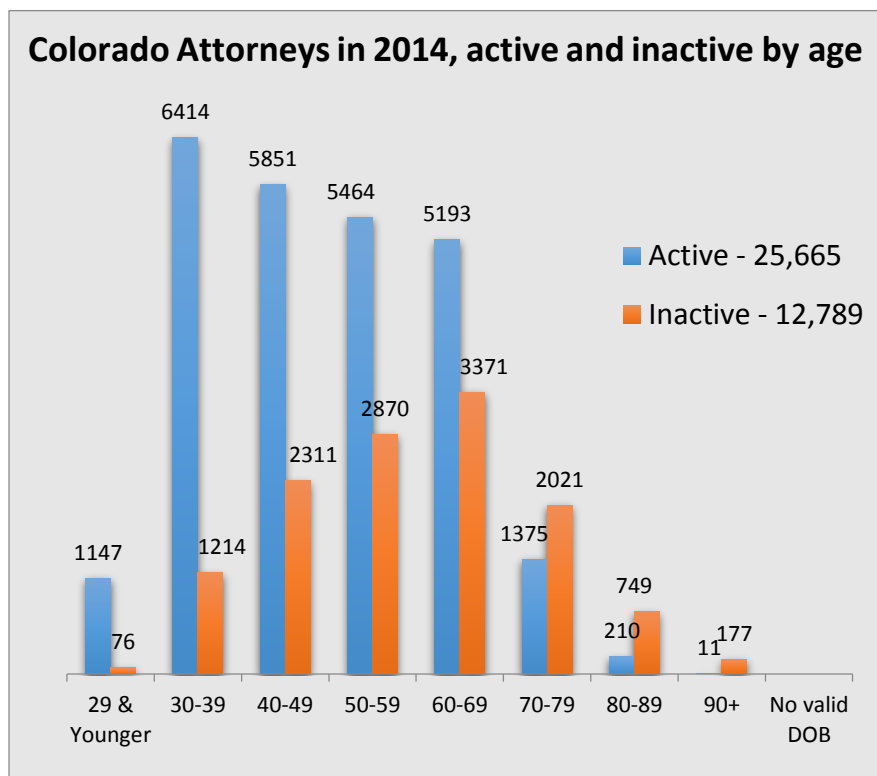
In appropriate cases, Attorney Admissions sends letters to applicants alerting them to the Colorado Lawyer Assistance Program (COLAP), and its services. The program is confidential and connects those in the legal community with resources to help with mental health issues, substance abuse problems, financial issues, gambling problems, relationship issues, grief counseling, aging in the profession and other similar topics. In 2014, the Office of Attorney Admissions sent COLAP letters to more than 33 applicants. In addition, Attorney Regulation Counsel and staff regularly appear at the state's two law schools, beginning with first-year orientation. These visits are to educate law students about the admissions process, COLAP and OARC resources, and professional responsibility issues.

¹⁵ All four applicants requested a formal hearing. One of those applicants was admitted following a hearing.

ATTORNEY REGISTRATION AND CLE

OVERVIEW

Once an applicant meets admission requirements, Attorney Registration completes the process by ensuring the proper administration of the oath. Attorneys then register annually with the office and pay annual license fees. Colorado ended 2014 with 38,454 registered attorneys, up 2 percent over last year and up 13 percent since 2009.



The annual license fees fund the Attorneys Fund for Client Protection and defray the costs of attorney regulation (including the Office of the Presiding Disciplinary Judge), attorney registration, continuing legal and judicial education, enforcement of

the unauthorized-practice-of-law rules, the Colorado Lawyer Assistance Program, the Colorado Attorney Mentoring Program, the Commission on Judicial Discipline, and some library services.

The office is run by the Clerk of Attorney Registration and CLE Regulation and is aided by five full-time staff members.

In 2014, the office began admitting attorneys under a host of new classifications as set out in the new Rules Governing Admission to the Practice of Law. (See right.)

The office also undertook changes to better address issues facing certain segments of the legal profession. The office changed its registration form to collect better demographic statistics on the state's lawyer profession. (You can review detailed statistics on attorney demographics in Appendix C.) With an accurate picture of our lawyer population, we hope to provide better resources to specific groups of attorneys in the future.

Military Spouse Rule 'Opens Doors'

When Evelyn Guevara's military husband was reassigned to New Mexico in 2009, she faced an arduous application process and bar exam preparation — all for the third time in three years.

The idea was too much, so she chose to start her family. Her career was put on hold for four years.

"It was so frustrating not to be able to grow professionally," she said.

But when Guevara's husband was again reassigned to Colorado in summer 2014, her luck changed. The Colorado Supreme Court was considering a streamlined admissions process for military spouses. On Sept. 1, 2014, the Military Spouse Certification went into effect. Three weeks later, Evelyn was admitted to practice becoming one of the first admittees under the new rule.

Colorado is one of only 12 states with such a measure. An additional dozen states are considering changes.

The new Colorado Rule of Civil Procedure 204.4 recognizes the unique mobility requirements of military spouse attorneys and removes many of the hoops that traditional applicants have to go through. There is no bar exam and only a truncated character and fitness review.

Guevara said she is happy she landed in Colorado, one of the few states to accommodate her.

"It just opens so many doors," she said.

This year was also the first full year using an online CLE affidavit submission system. The change helped increase accuracy, reduce staff data-entry time and improve user-friendliness.

ATTORNEY REGISTRATION

Attorney Registration maintains the roll of licensed attorneys in the state of Colorado.

The state began the year with 37,692 licensed Colorado attorneys and ended with 38,437:

- 25,737 active attorneys; and
- 12,700 inactive attorneys.

Attorney Registration approved for admission 1,798 new attorneys:

- 914 new lawyers who were admitted through the bar exam;
- 45 new lawyers who were admitted through application of UBE requirements;
- 245 new lawyers who were admitted by on-motion applications from a reciprocal admissions state;
- 63 new lawyers who were admitted as single-client certification attorneys;
- 496 new lawyers who were admitted pro hac vice;
- 1 new lawyer who was admitted under the temporary professor rule;
- 2 new lawyers who were admitted under the military spouse rule;
- 1 new lawyer who was admitted under the judge advocate certification;
- 19 lawyers who were admitted under the pro bono emeritus status; and
- 12 new lawyers who were admitted under the practice pending admission rule.

CONTINUING LEGAL AND JUDICIAL EDUCATION

Attorneys have to meet continuing legal education requirements on a three-year cycle. Attorney Registration works with the Board of Continuing Legal and Judicial Education to accredit CLE courses and process affidavits affirming attorneys' attendance at events. The Board consists of nine members: six attorneys, one judge and two non-attorneys who provide citizen voices in administration of the mandatory continuing legal and judicial education system.

This year was the first full year using a web-based affidavit system. Attorneys can now enter their CLE affidavits online. The system also allows attorneys who lose the form provided at CLE programs to look up the course and to monitor their transcript.

In 2014, the Board of Continuing Legal and Judicial Education:

- Processed 92,298 CLE affidavits;
- Processed 33 additional CLE affidavits for mentoring;
- Processed 59 additional CLE affidavits for pro bono work; and
- Accredited 5,755 CLE courses.

In May 2013, a subcommittee was formed to review and consider revisions to the current Rules and Regulations pertaining to Mandatory Continuing Legal and Judicial Education. These Rules and Regulations need thorough review and analysis due to the fact that they still contain information and dates specific to the time they were adopted in the late-1970s. The subcommittee hopes to propose revised Rules to the Supreme Court through the Court's Advisory Committee in the fall of 2015.

ATTORNEY REGULATION

OVERVIEW

Attorney Regulation Counsel's traditional role is to investigate, regulate and, when necessary, prosecute attorneys accused of more serious violations of the Colorado Rules of Professional Conduct.

The Colorado model of attorney regulation is designed to move cases of minor ethical misconduct toward a quick resolution and devote its resources to cases that involve more serious attorney misconduct. The goal is to protect the public while nurturing and educating attorneys to prevent future misconduct.

In 2014, Attorney Regulation Counsel received 20,109 calls. Of those, 3,528 were calls filing a request for investigation against an attorney. The office's intake division reviewed all of those cases and processed 346 matters for full investigation by the trial division.

The trial division worked those 346 cases in addition to 231 cases carried over from 2013. In total, the Office of Attorney Regulation's work in 2014 resulted in:

- 190 dismissals with educational language;
- 82 diversion agreements;
- 1 public censure;
- 44 suspensions;
- 27 probations; and
- 9 disbarments.

INTAKE DIVISION

The intake division acts as the office's triage unit. Its six attorneys, two investigators and three legal assistants are the front line for all complaints, deciding how a case is handled and whether it moves forward.¹⁶

Trained specialists take all calls to the office and, if necessary, assign the case to an intake attorney. That attorney reviews the facts, then decides whether the Colorado Rules of Professional Conduct are implicated and whether further investigation is warranted.

Intake attorneys have numerous options. They can dismiss cases outright; issue letters with educational language to the respondent-attorney; agree in cases of minor misconduct to an alternative to discipline involving education or monitoring; or forward matters of more serious misconduct to the trial division.

In 2014, central intake handled 20,109 telephone calls. The intake division:

- Reviewed 3,528 requests for investigation;¹⁷
- Entered into 45 diversion agreements;
- Dismissed 181 cases with educational language;
- Processed 346 cases for further investigation by the trial division.

Magistrates

Attorney Regulation Counsel is responsible for handling complaints against state court magistrates.

In 2014, 45 complaints were filed against magistrates — of those, 43 were dismissed and two remained pending.

Trust Account

Attorneys in private practice are required to maintain a trust account in an approved Colorado financial institution. Those financial institutions agree to report to Attorney Regulation Counsel any overdraft on the trust accounts. The

¹⁶ For detailed statistics on the intake division, see Appendix D.

¹⁷ For a breakdown of complaints by practice area and by nature of complaint, see Appendix E.

reporting requirement is designed as an early warning that an attorney is engaging in conduct that may harm clients. Reports of overdrafts receive immediate attention.

In 2014, the Office of Attorney Regulation Counsel received 269 notices of trust account checks drawn on insufficient funds. These matters were handled through the investigation process described above.

TRIAL DIVISION

The next stop for a case is the trial division. In 2014, the trial division handled the 346 cases processed by the intake division as well as 231 cases carried over from 2013.¹⁸

The trial division's attorneys, non-attorney investigators and legal assistants investigate the cases. At the end of the investigation, there are numerous outcomes, many intended to quickly resolve less serious matters.

In 2014, during the investigation phase, the trial division:

- Recommended the dismissal of 76 cases, 9 of them with educational language; and
- Entered into 20 conditional admission agreements approved by the Presiding Disciplinary Judge; and

If at the end of the investigation phase, one of the above resolutions is not reached, trial counsel prepares a report recommending formal proceedings. That report is presented to the Attorney Regulation Committee, which comprises nine members: six attorneys and three public members who act as an outside perspective and gatekeeper for all official disciplinary proceedings against respondent attorneys. The Committee considers reports prepared by Office of Attorney Regulation Counsel attorneys and determines whether reasonable cause exists to seek discipline.

¹⁸ For detailed statistics on the trial division process, see Appendices F through J.

In 2014, the trial division presented 181 matters to the Attorney Regulation Committee.¹⁹ The Committee approved:

- 102 formal proceedings;
- 37 diversion agreements; and
- 4 private admonitions.

Several of the 102 matters in which the Office of Attorney Regulation Counsel was authorized to file a formal complaint were consolidated. In certain cases, after authority to file a formal complaint was obtained, Attorney Regulation Counsel and the respondent attorney entered into a conditional admission prior to the filing of a formal complaint.

In 2014, after receiving authorization to file a formal complaint, the Attorney Regulation Counsel:

- Filed 41 formal complaints;
- Resolved 7 matters prior to filing a formal complaint; and
- Entered into 27 conditional admissions agreements.

The 41 formal complaints filed in 2014, and those pending from 2013, resulted in 16 discipline trials before the Presiding Disciplinary Judge.

OTHER ACTIONS²⁰

Immediate Suspensions

On rare occasions, the Office of Attorney Regulation Counsel may seek the immediate suspension of an attorney's license in order to protect the public. An immediate suspension may be appropriate when there is reasonable cause to believe that an attorney is causing immediate and substantial public or private harm. Additionally, the office can seek such action if an attorney is in arrears on a

¹⁹ Because some matters are carried over from one calendar year to the next, the number of matters reviewed by the Attorney Regulation Committee will not conform to the number docketed or completed in the investigations area.

²⁰ For detailed statistics on Other Actions, see Appendix K.

child-support order or is not cooperating with Attorney Regulation Counsel as required by the Colorado Rules of Professional Conduct.

In 2013, the Office of Attorney Regulation Counsel filed 19 petitions for immediate suspension. Of those, 13 were granted, 5 were withdrawn, and 1 remained pending:

- 8 involved attorneys causing immediate and substantial harm;
- 1 involved failure to pay child support;
- 3 involved failure to cooperate with Attorney Regulation Counsel; and
- 1 involved a felony conviction.

Disability Matters

When an attorney is unable to fulfill professional responsibilities due to physical, mental, or emotional illness, the Office of Attorney Regulation Counsel may file a petition to transfer an attorney to disability status. This is not a form of discipline.

In 2014, the Office of Attorney Regulation Counsel filed 15 petitions to place attorneys on disability status. Thirteen were granted. Two were denied. One remained pending.

Contempt Proceedings

The Office of Attorney Regulation Counsel may file a motion with the Supreme Court recommending contempt for an attorney practicing law while under suspension or disbarment.

In 2014, the Office of Attorney Regulation Counsel filed 3 motions for contempt. Three attorneys were held in contempt (including one pending case from 2013) and one case from 2014 remained pending at the end of the year.

Reinstatement and Readmission Matters

Attorneys who have been disbarred or suspended for at least one year and one day must apply for readmission or reinstatement. The process is similar to an attorney discipline case and is intended to assess the attorney's fitness to return to the practice of law. In readmission and reinstatement matters, the applicant attorney must prove rehabilitation and other elements by clear and convincing evidence.

In 2014, 8 attorneys applied for reinstatement or readmission:

- 4 were reinstated;
- 1 application was dismissed;
- 1 was denied; and
- 4 matters were pending at the close of 2014.

Unauthorized Practice of Law²¹

The Office of Attorney Regulation Counsel, in coordination with the Unauthorized Practice of Law Committee (UPL), investigates and prosecutes allegations of the unauthorized practice of law. The UPL Committee is composed of nine members: six attorneys and three non-attorneys who provide a community perspective on UPL regulation and who retain jurisdiction over complaints of unauthorized practice of law.

In 2014, the Office of Attorney Regulation Counsel received 72 requests for investigation alleging the unauthorized practice of law. Of those 72 matters, 68 were completed in 2014:

- 35 were dismissed by Attorney Regulation Counsel;
- 14 resulted in written agreements to refrain from the conduct in question; and
- 19 resulted in an injunctive or contempt proceeding.

Attorneys Fund for Client Protection

The Office of Attorney Regulation Counsel assists the Board of Trustees for the Attorneys Fund for Client Protection by investigating claims made on the fund, alleging client loss due to the dishonest conduct of an attorney. The statistics for this work are shown in a separate annual report, posted on www.coloradosupremecourt.com, “Attorneys Fund for Client Protection Annual Report 2014.”

²¹ For detailed statistics on the Unauthorized Practice of Law, including a breakdown of UPL cases by Type of Complaining Witness and Type of Legal Service, see Appendix L.

Commission on Judicial Discipline

The Office of Attorney Regulation Counsel acts as Special Counsel for the Colorado Commission on Judicial Discipline on request of the Executive Director.

In 2014, the Office of Attorney Regulation Counsel continued as special counsel on one judicial discipline matter that concluded in early 2014 with a public censure and resignation.

CASE MONITOR

The cornerstones of Colorado's attorney regulation system are the diversion (alternative-to-discipline) agreement and probation conditions in discipline matters. Diversion agreements and probation conditions protect the public while allowing an otherwise competent attorney to continue practicing.

Central to these agreements is monitoring. An attorney respondent must adhere to conditions agreed to by this office and the attorney. Those conditions can include attendance at our office's trust account school or ethics school, submitting to drug or alcohol monitoring, or receiving medical or mental health treatment.

To ensure compliance, this office employs a full-time case monitor. The case monitor's relationship with respondent attorneys begins when the monitor sends a calendar detailing important compliance deadlines. Throughout the diversion or probation process, the monitor follows up with email reminders and finally phone calls if an attorney has missed a deadline.

SOBERLINK Provides Better Service

The Office of Attorney Regulation Counsel is always looking for ways to better facilitate an attorney's recovery from drug or alcohol addiction. Toward that goal, the office switched to a new breath alcohol testing unit in 2014.

Studies show that consistent monitoring early in recovery can dramatically improve outcomes. Yet, many attorneys under supervision for alcohol dependence weren't complying as often as they should. For many attorneys, they were not willfully disregarding the conditions of their alternative-to-discipline program. They simply found the alcohol testing unit too bulky and were uncomfortable pulling it out in public.

The new unit, the SOBERLINK Breathalyzer, is compact and can send results over the internet for discreet, convenient and cost-effective monitoring.

The goal of the monitor is to help attorneys comply with their diversion or probation conditions and help them make a successful transition back to normal law practice.

In 2014, the case monitor also responded to concerns by attorneys monitored for alcohol dependence and switched to a compact testing system. (See previous page.)

The case monitor also helps run the various schools for attorneys intended to improve the provision of legal services to consumers.

In 2014, the case monitor:

- Organized 5 Ethics Schools, attended by 132 attorneys
- Organized 4 Trust Account Schools, attended by 92 people, the most since the Office of Attorney Regulation Counsel began offering the program.

INVENTORY COUNSEL

The Office of Attorney Regulation Counsel's umbrella covers the end of an attorney's career and sometimes the end of his or her life. When an attorney is no longer able to perform his or her duties to clients, either due to disability or death, and there's no other party responsible for the attorney's affairs, the Office of Attorney Regulation Counsel steps in to file a petition for appointment of inventory counsel.

With the assistance of volunteer Colorado attorneys, and investigators and attorneys from the office, the Inventory Counsel Coordinator reviews all of the files and takes steps to protect the interests of the attorney and the attorney's clients. The file inventory and file return process may take months or years depending on the number of files, the area of practice, and the difficulty in locating the previous clients.

In 2014, the Office of Attorney Regulation Counsel:

- Filed 5 new petitions for appointment of inventory counsel;
- Worked 17 active inventory matters;
- Closed 12 inventory matters;
- Contacted 1,622 clients whose files contained original documents or involved a felony criminal matter; and
- Inventoried 4,301 client files, a 44 percent increase over last year.

EDUCATION/OUTREACH

Since 1998, when the Colorado Supreme Court reorganized the state's attorney discipline system, the Office of Attorney Regulation Counsel has addressed minor conduct by correcting it with education and training. But the office now recognizes the best way to protect the public is to prevent misconduct before it occurs.

In pursuit of that goal, the Office of Attorney Regulation Counsel seeks to promote an understanding of the legal field and offer attorneys educational opportunities that aid them in their practice of law.

That pursuit takes many forms.²²

- The Office of Attorney Regulation Counsel conducts a majority of its outreach through talks and presentations. The office seeks to reach attorneys early and so its members often speak to students at the state's two law schools. Members of the office also talk at bar association gatherings and CLE courses on various attorney ethics topics. And the office often delivers presentations at conferences for other bar counsel professionals.
- The office created and teaches schools for attorneys intended to improve the provision of legal services to consumers. These schools are:
 - Ethics School, a seven-hour course focusing on everyday dilemmas that

²² For further details on the office's Education and Outreach, see Appendix M.

confront attorneys;

- Trust Account School, a four-hour course that addresses the correct method for maintaining and administering a trust account;
 - Professionalism School, a six-hour course that addresses the most common ethical dilemmas faced by newly admitted attorneys; and
 - Practice Monitor Class, a half-day course instructing attorneys on how to be practice monitors for other attorneys required to have supervision as part of an alternative-to-discipline or probation program.
- The office's attorneys and investigators serve on numerous local boards and are active in national and international legal organizations.
 - Members of the office regularly make presentations on a national level, including presentations at the National Organization of Bar Counsel, the ABA Standing Committee on Client Protection, the National Conference of Bar Examiners, the National Client Protection Organization, the ABA Immigration Section, and the Commission on Lawyer Assistance Programs.

In 2014, the Office of Attorney Regulation Counsel:

- Delivered 159 public speeches and presentations;

In 2014, the office also continued two outreach initiatives:

1. The office continued disseminating the OARC Update, a quarterly email newsletter to the state's 38,000-plus attorneys.²³ The newsletters contain deadline reminders and links to articles written by the office's attorneys on best practices and ethical hot topics. Each newsletter in 2014 was opened by an average of 16,629 attorneys, of which an average of 4,422 read at least one article.
2. The office also continued sending letters to attorneys who change their practice area from public service or large firm practice to solo or small-firm practice. This group of attorneys face challenges in managing a private practice they likely didn't face while working as a government or large-firm attorney. The letters ask the practitioner to fill out a self-audit checklist and discuss the

²³ The two email newsletters sent in 2014 can be seen in the OARC Update section of Appendix M.

results with a seasoned solo or small firm practitioner. The letters also make these attorneys aware of resources that may help them during their transition.

COMMITTEES

There are numerous boards and committees composed of volunteer members who provide critical citizen input into regulating the practice of law in Colorado.²⁴

Supreme Court Advisory Committee

The Supreme Court Advisory Committee is a volunteer committee that assists the Court with administrative oversight of the entire attorney regulation system. The Committee's responsibilities are to review the productivity, effectiveness and efficiency of the Court's attorney regulation system including that of the Office of Attorney Regulation Counsel, the Office of the Presiding Disciplinary Judge, the Colorado Lawyer Assistance Program (COLAP) and the Colorado Attorney Mentoring Program (CAMP).

Attorney Regulation Committee

The Attorney Regulation Committee is composed of nine volunteer members: six attorneys and three public members. The Committee, known as ARC, is the gatekeeper for all official disciplinary proceedings against respondent attorneys. It considers reports prepared by Office of Attorney Regulation Counsel attorneys and determines whether reasonable cause exists to seek discipline. The Committee also considers, and enters into, investigation-level diversion agreements.

Board of Trustees, Attorneys Fund for Client Protection

The Board of Trustees is composed of five attorneys and two non-attorney public members. The trustees evaluate, determine and pay claims made on the Attorneys Fund for Client Protection based on reports submitted by the Office of Attorney Regulation Counsel. The Board of Trustees issue a separate report, found on www.coloradosupremecourt.com.

Committee on the Colorado Rules of Professional Conduct

The Committee on the Colorado Rules of Professional Conduct is composed of attorneys and judges from varying backgrounds. The Committee is charged with reviewing and updating the Colorado Rules of Professional Conduct. Prior to the

²⁴ Committee rosters are listed on pages 8-10.

committee's formation, numerous interest groups individually recommended rule changes to the Supreme Court. Those parties continue to request changes, but the Supreme Court expects the Committee to consider these recommendations in the first instance.

Law Committee

The Law Committee is composed of 11 volunteer attorney members. It reviews and approves the standards that must be met to pass the written examination.

Character and Fitness Committee

The Bar Committee is composed of 11 volunteer members: seven attorneys and four non-attorneys. The Committee is charged with investigating applicants' character and fitness to practice law in Colorado.

Board of Continuing Legal and Judicial Education

The Board of Continuing Legal and Judicial Education consists of nine members: six attorneys, one judge and two non-attorneys. The Board administers the program requiring attorneys and judges to take continuing education courses.

Unauthorized Practice of Law Committee

The Unauthorized Practice of Law Committee is composed of nine members: six attorneys and three non-attorneys. The Committee has jurisdiction over allegations involving the unauthorized practice of law.

Colorado Commission on Judicial Discipline

The Colorado Commission on Judicial Discipline is composed of 10 members of the public. Members are appointed by the Supreme Court, the Governor, and the Legislature. The Commission is charged with monitoring the conduct of the judiciary, including judges of county and district courts, the Court of Appeals, and the Supreme Court.



APPENDICES

Appendix A

OFFICE OF ATTORNEY REGULATION COUNSEL DUTIES

The Colorado Rules of Civil Procedure lay out Attorney Regulation Counsel's multiple regulatory and administrative duties. These duties include:

1. Field and investigate complaints filed with the central intake division of the Office of Attorney Regulation Counsel;
2. Investigate and prosecute violations of the Colorado Rules of Professional Conduct under the direction of the Attorney Regulation Committee, C.R.C.P. 251.3;
3. Investigate and prosecute violations of the Colorado Rules of Professional Conduct relating to trust account overdraft notifications;
4. Investigate and prosecute attorney disability actions;
5. Investigate and prosecute petitions for immediate suspension, C.R.C.P. 251.8, C.R.C.P. 251.8.5, and C.R.C.P. 251.8.6;
6. Investigate and prosecute contempt proceedings for violations of the Colorado Rules of Procedure Regarding Attorney Discipline and Disability, C.R.C.P. 251.3(c)(7);
7. Investigate and prosecute violations of the Code of Judicial Conduct by attorneys serving as magistrates under the Colorado Rules for Magistrates;
8. Investigate and prosecute complaints alleging the unauthorized practice of law upon the request and direction of the Unauthorized Practice of Law Committee, C.R.C.P. 228, *et seq.*;
9. Coordinate and investigate the filing of claims with the Colorado Attorneys' Fund for Client Protection under the direction of the Colorado Attorneys' Fund for Client Protection Board of Trustees, C.R.C.P. 251.3, *et seq.*, C.R.C.P. 252, *et seq.*;
10. Perform attorney admission duties, including the administration of the Colorado Bar Examination and all character and fitness determinations;

- and represent and counsel the Colorado State Board of Law Examiners in inquiry panels and formal hearings as required by the Rules Governing Admission to the Practice of Law in Colorado;
11. As requested, represent and serve as special counsel to the Commission on Judicial Discipline in matters related to the removal, retirement, suspension, censure, reprimand, or other discipline of judges, Colorado Rules of Judicial Discipline, Chapter 24;
 12. Obtain appointment of inventory counsel in cases where an attorney has become disabled, disappeared, or died, and assist inventory counsel with the client files and funds;
 13. Provide extensive educational opportunities to the practicing bar and the public on topics related to attorney ethics; and
 14. Perform duties on behalf of the Board of Continuing Legal and Judicial Education pursuant to the Colorado Supreme Court's interim order dated December 1, 2011.

The various duties of Attorney Regulation Counsel are set forth individually to reflect a summary of work performed in each area. The annual report of the Colorado Attorneys' Fund for Client Protection is under separate cover.

In 2014, the Office of Attorney Regulation Counsel employed 62 full-time employees.

Appendix B

BAR EXAM STATISTICS

| EXAM STATISTICS February 2014 Bar Exam | | | |
|--|-----------------|---------------------|--------------|
| | <u>Attorney</u> | <u>Non-attorney</u> | <u>Total</u> |
| # of applicants | 173 | 269 | 442 |
| # of withdrawals | 16 | 27 | 43 |
| # of no shows | 2 | 5 | 7 |
| # who took exam | 155 | 237 | 392 |
| # of new applicants | 125 | 116 | 241 |
| # of updates | 30 | 121 | 151* |
| # who passed | 129 | 152 | 281 (72%) |
| # who failed | 26 | 85 | 111 (28%) |

* 39 who have never sat for an exam in Colorado and 112 who previously failed.

PASS/FAIL RATES
By Law School
February 2014 Bar Exam

| Examinees | Law School | Passed | | Failed | | Total |
|-------------------|------------------------|--------|--------|--------|-------|-------|
| First Time | University of Colorado | 9 | (82%) | 2 | (18%) | 11 |
| | University of Denver | 34 | (81%) | 8 | (19%) | 42 |
| | National* | 19 | (100%) | 0 | (0%) | 19 |
| | Other | 158 | (76%) | 50 | (24%) | 208 |
| | | 220 | (79%) | 60 | (21%) | 280 |
| Repeat | University of Colorado | 9 | (69%) | 4 | (31%) | 13 |
| | University of Denver | 19 | (58%) | 14 | (42%) | 33 |
| | National* | 1 | (33%) | 2 | (67%) | 3 |
| | Other | 32 | (51%) | 31 | (49%) | 63 |
| | | 61 | (54%) | 51 | (46%) | 112 |
| All | University of Colorado | 18 | (75%) | 6 | (25%) | 24 |
| | University of Denver | 53 | (71%) | 22 | (29%) | 75 |
| | National* | 20 | (91%) | 2 | (9%) | 22 |
| | Other | 190 | (70%) | 81 | (30%) | 271 |
| | | 281 | (72%) | 111 | (28%) | 392 |

* Schools categorized as "National" are:

Columbia
Harvard
Stanford
Yale
Duke
Michigan
Chicago
California Berkeley
Virginia
Texas

EXAM STATISTICS
July 2014 Bar Exam

| | <u>Attorney</u> | <u>Non-attorney</u> | <u>Total</u> |
|---------------------|-----------------|---------------------|--------------|
| # of applicants | 155 | 747 | 902 |
| # of withdrawals | 20 | 27 | 47 |
| # of no shows | 3 | 4 | 7 |
| # who took exam | 132 | 716 | 848 |
| # of new applicants | 97 | 602 | 699 |
| # of updates | 35 | 114 | 149* |
| # who passed | 91 | 541 | 632 (75%) |
| # who failed | 41 | 175 | 216 (25%) |

* 88 who have never sat for an exam in Colorado and 61 who previously failed.

PASS/FAIL RATES

By Law School

July 2014 Bar Exam

| Examinees | Law School | Passed | | Failed | | Total |
|-------------------|------------------------|--------|--------|--------|--------|-------|
| First Time | University of Colorado | 108 | (82%) | 23 | (18%) | 131 |
| | University of Denver | 169 | (84%) | 32 | (16%) | 201 |
| | National* | 37 | (90%) | 4 | (10%) | 41 |
| | Other | 302 | (73%) | 112 | (27%) | 414 |
| | | 616 | (78%) | 171 | (22%) | 787 |
| Repeat | University of Colorado | 3 | (100%) | 0 | (0%) | 3 |
| | University of Denver | 6 | (32%) | 13 | (68%) | 19 |
| | National* | 0 | (0%) | 1 | (100%) | 1 |
| | Other | 7 | (18%) | 31 | (82%) | 38 |
| | | 16 | (26%) | 45 | (74%) | 61 |
| All | University of Colorado | 111 | (83%) | 23 | (17%) | 134 |
| | University of Denver | 175 | (80%) | 45 | (20%) | 220 |
| | National* | 37 | (88%) | 5 | (12%) | 42 |
| | Other | 309 | (68%) | 143 | (32%) | 452 |
| | | 632 | (75%) | 216 | (25%) | 848 |

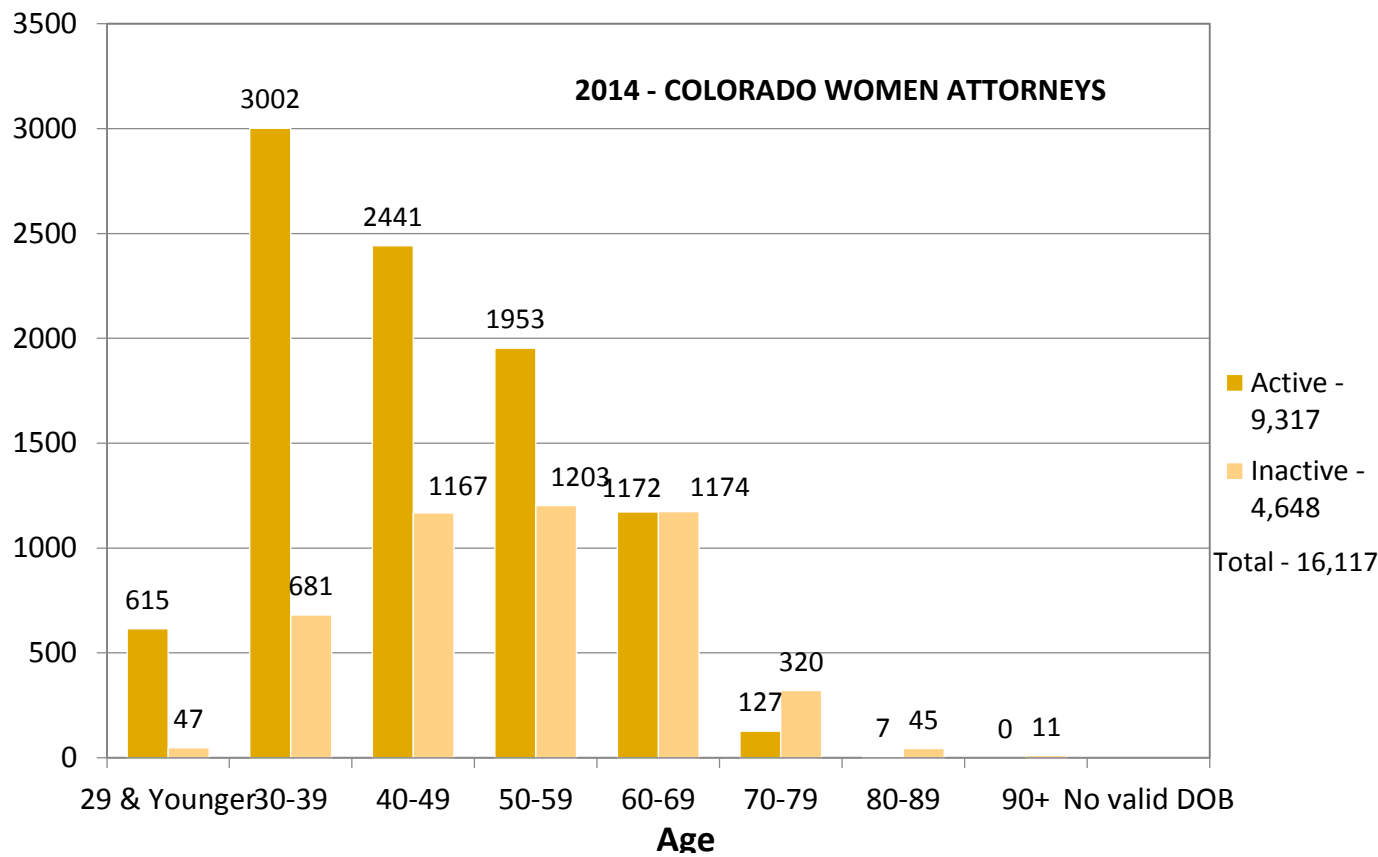
* Schools categorized as "National" are:

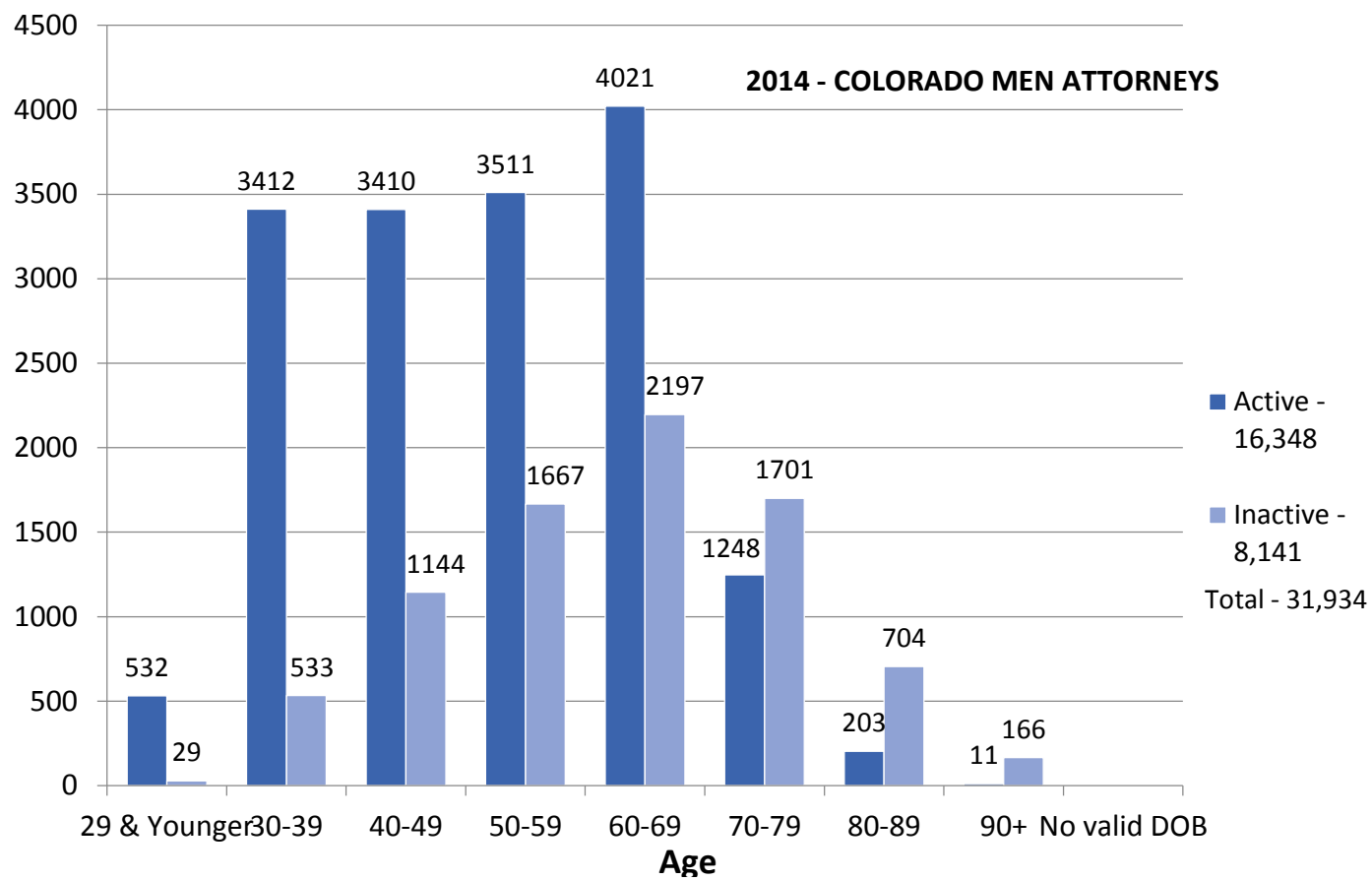
Columbia
Harvard
Stanford
Yale
Duke
Michigan
Chicago
California Berkeley
Virginia
Texas

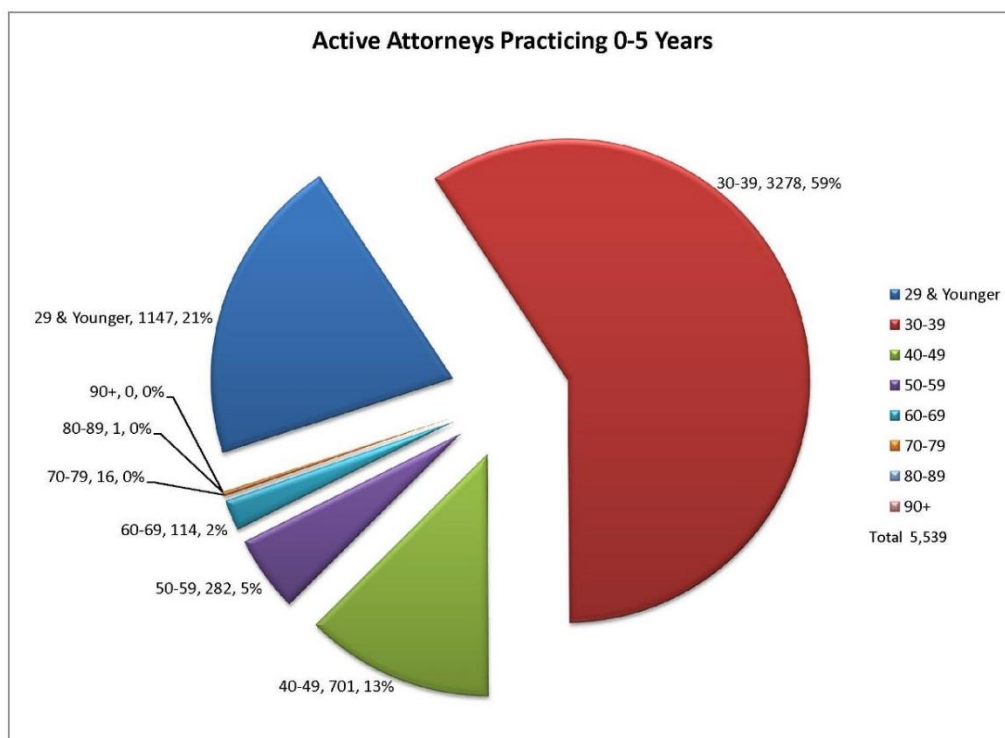
Appendix C

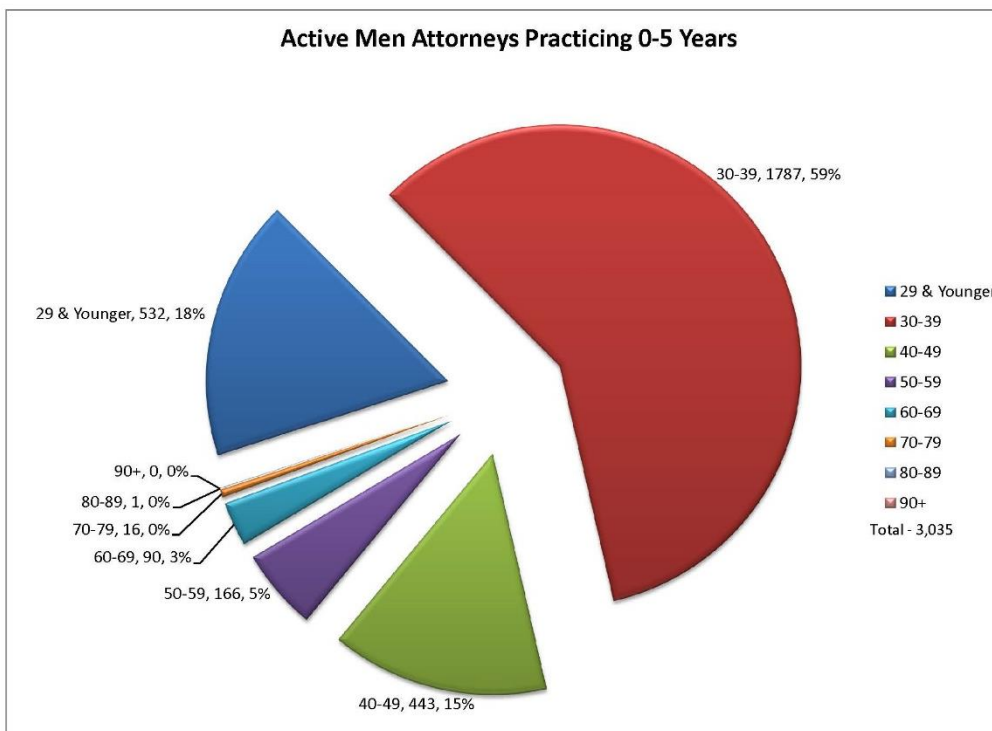
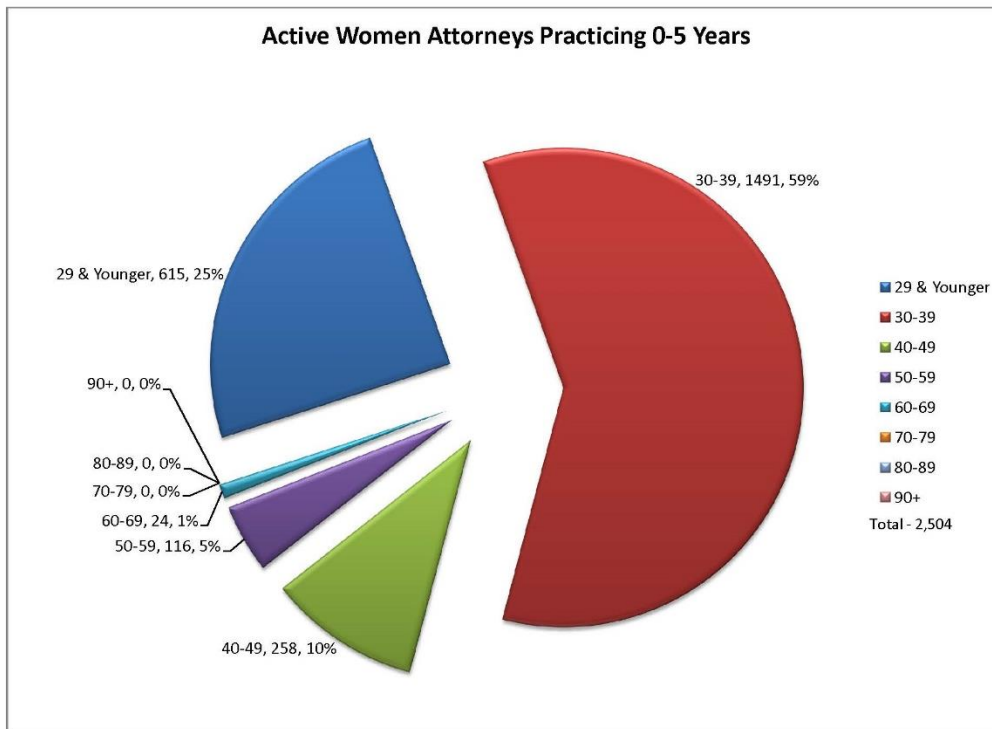
COLORADO ATTORNEY DEMOGRAPHICS

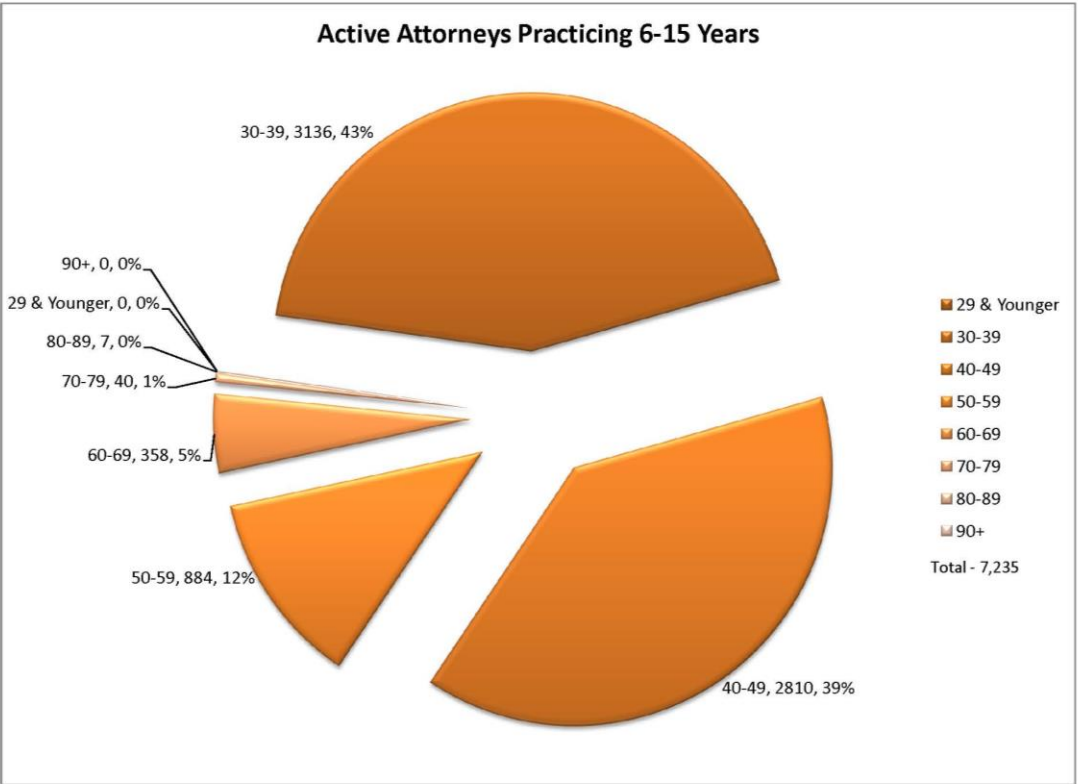
Attorney Registration changed its registration form to collect better demographic statistics on the state's lawyer profession. With an accurate picture of Colorado's lawyer population, the office hopes to provide better resources to specific groups of attorneys in the future.

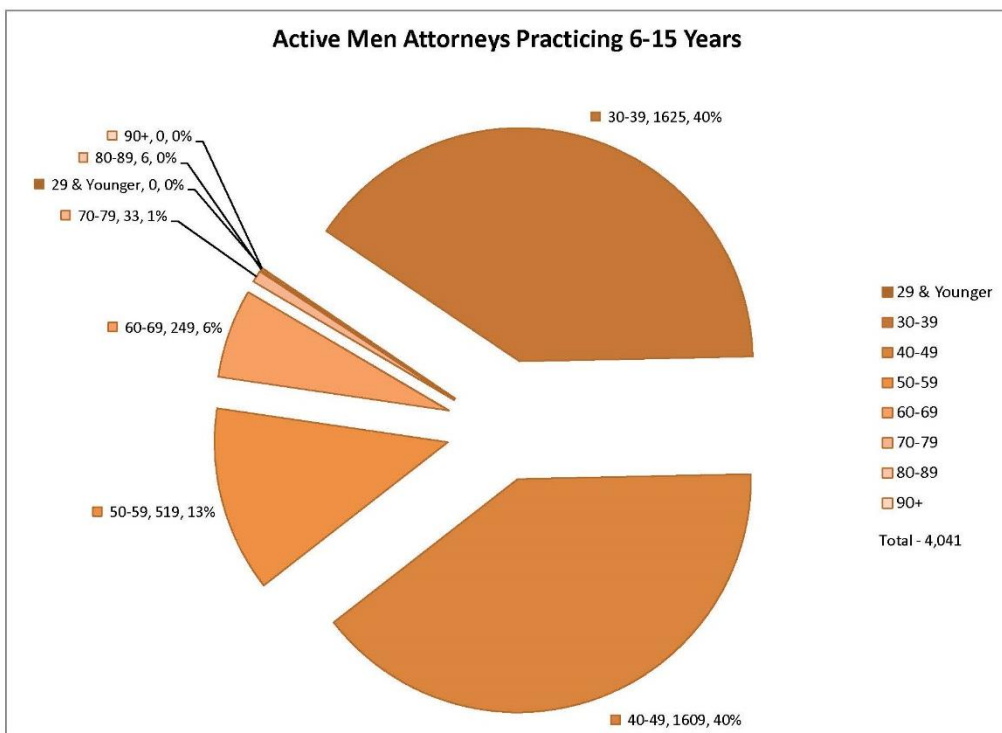
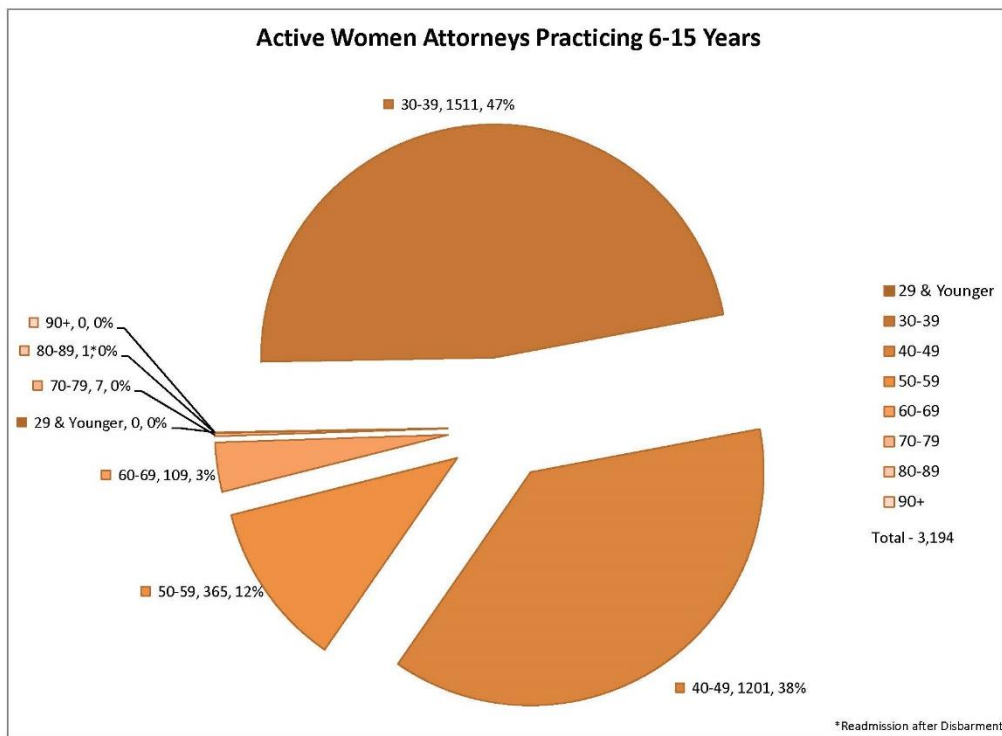


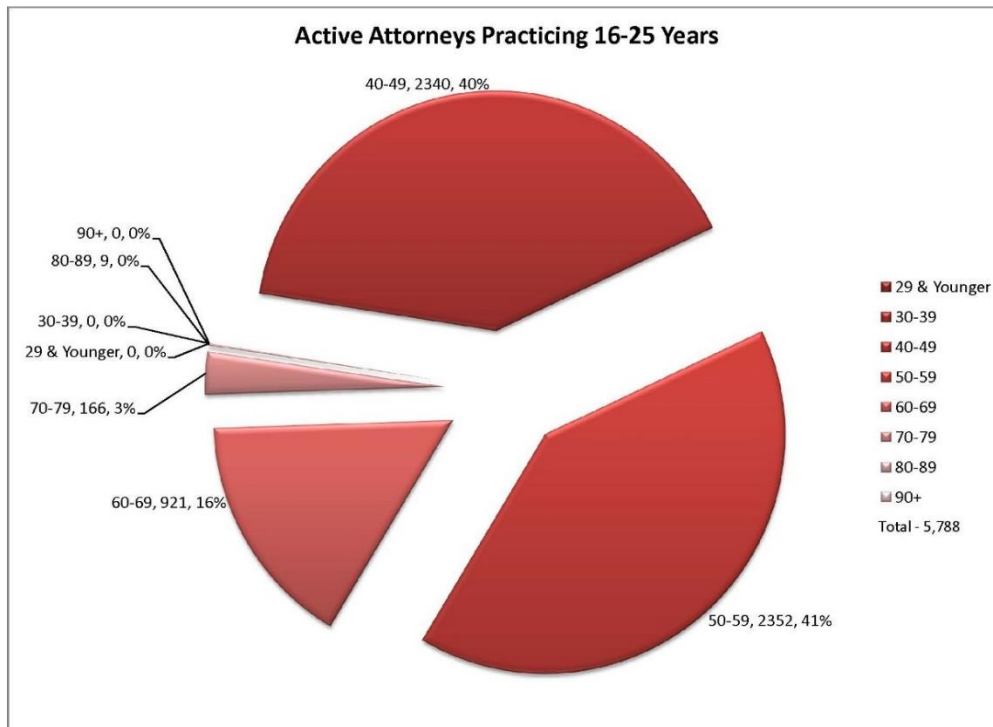


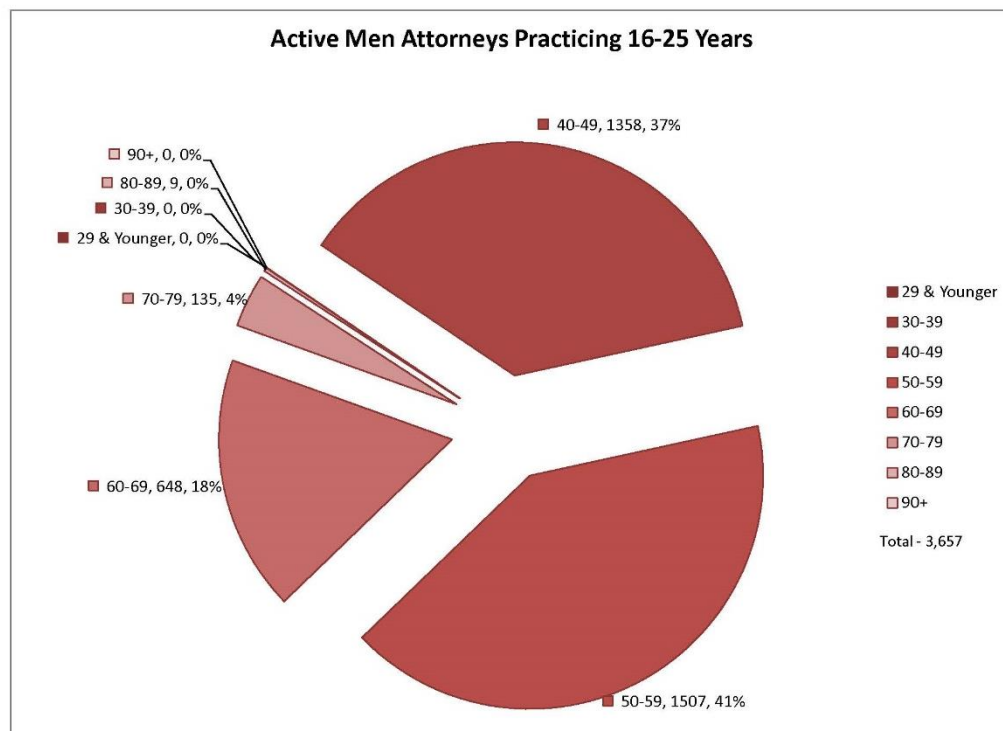
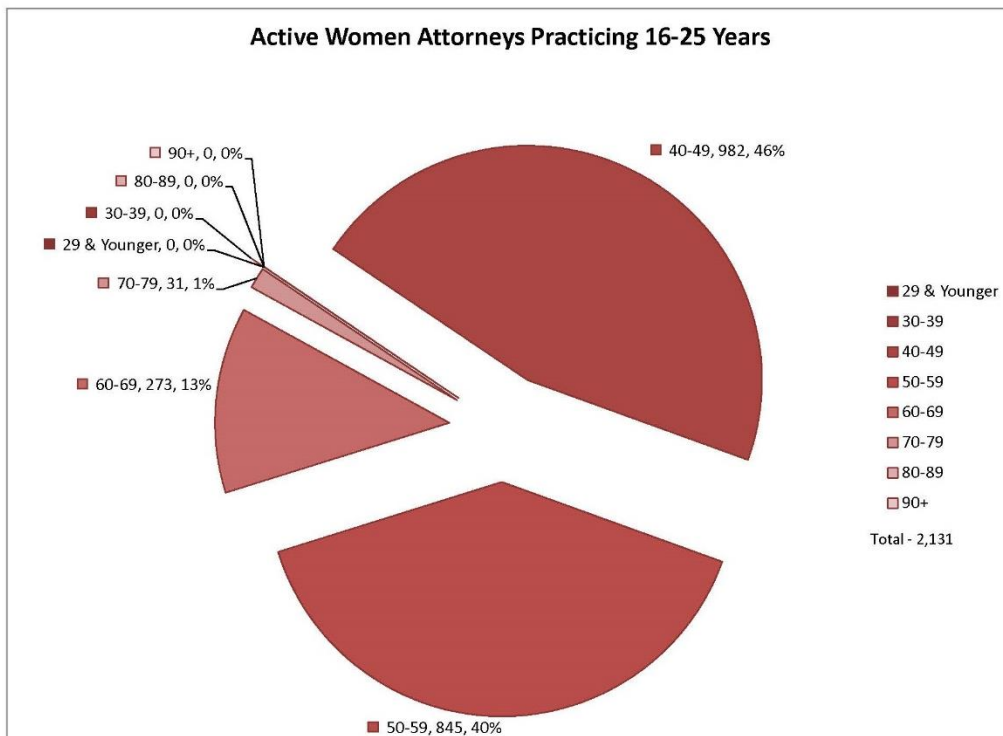


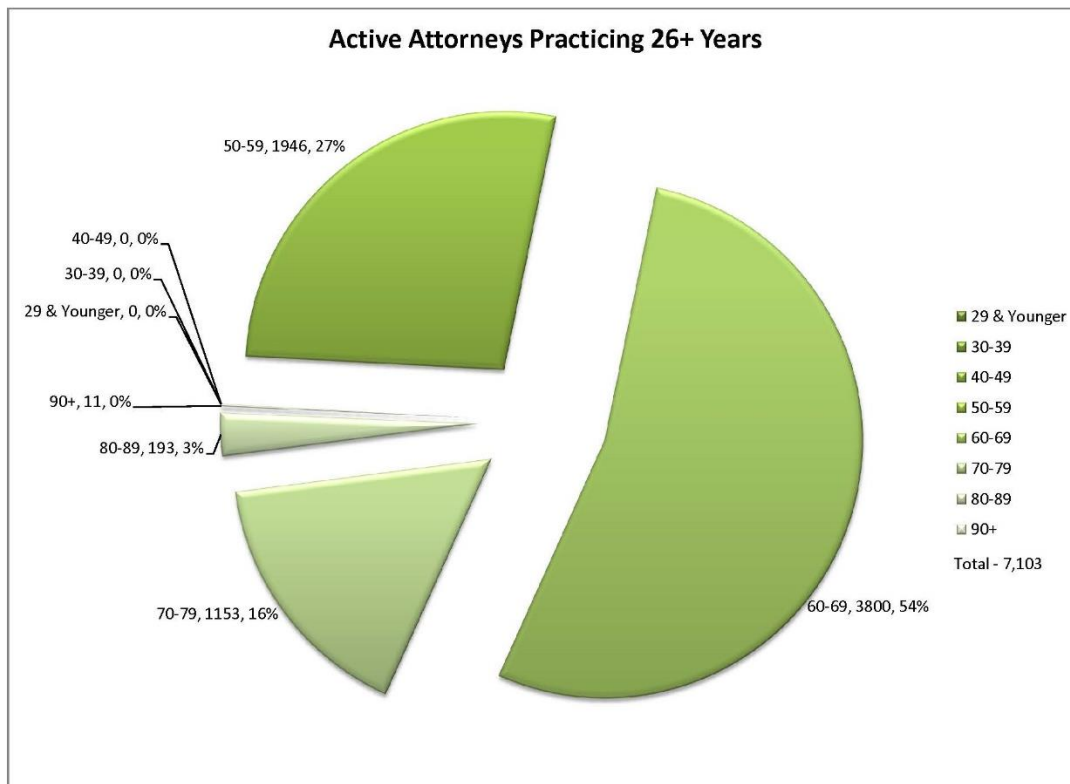


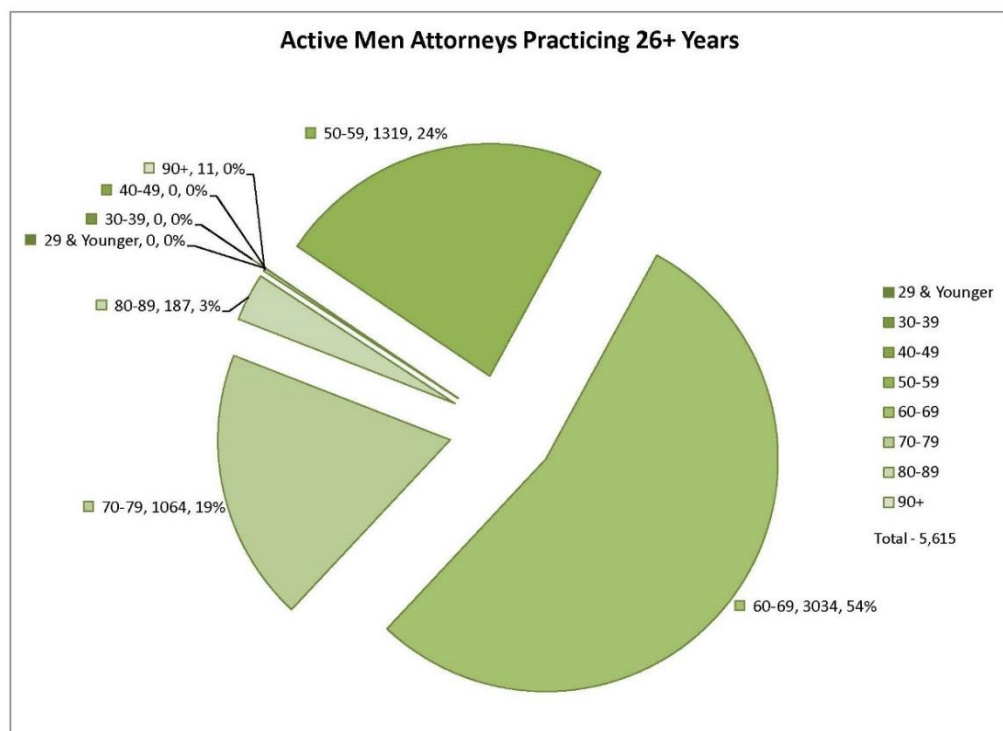
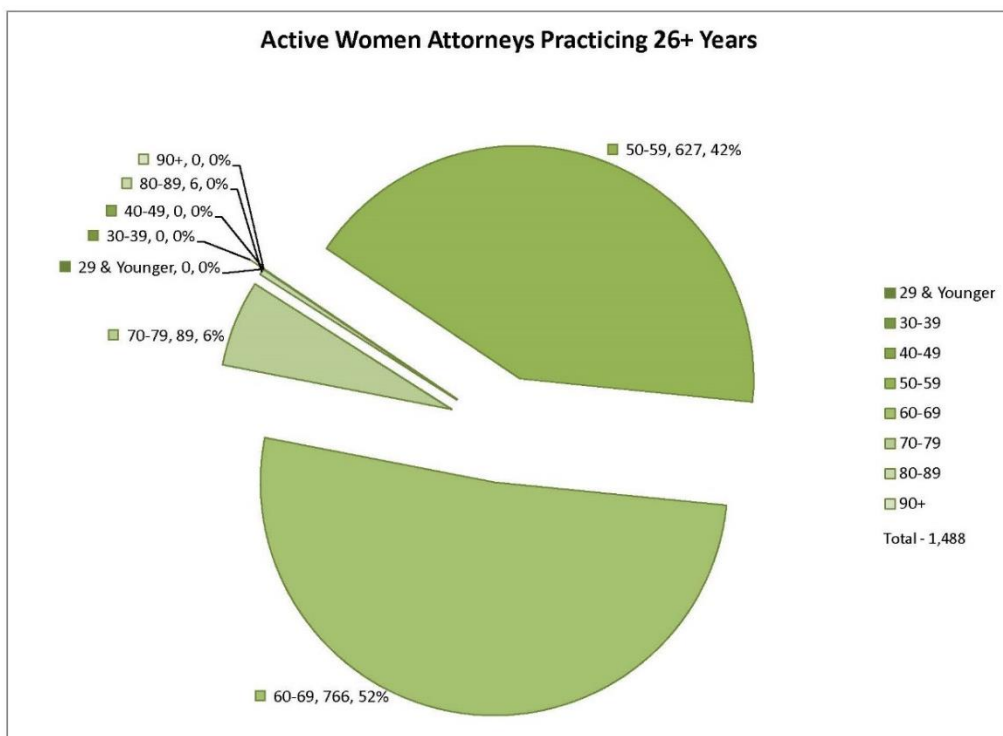


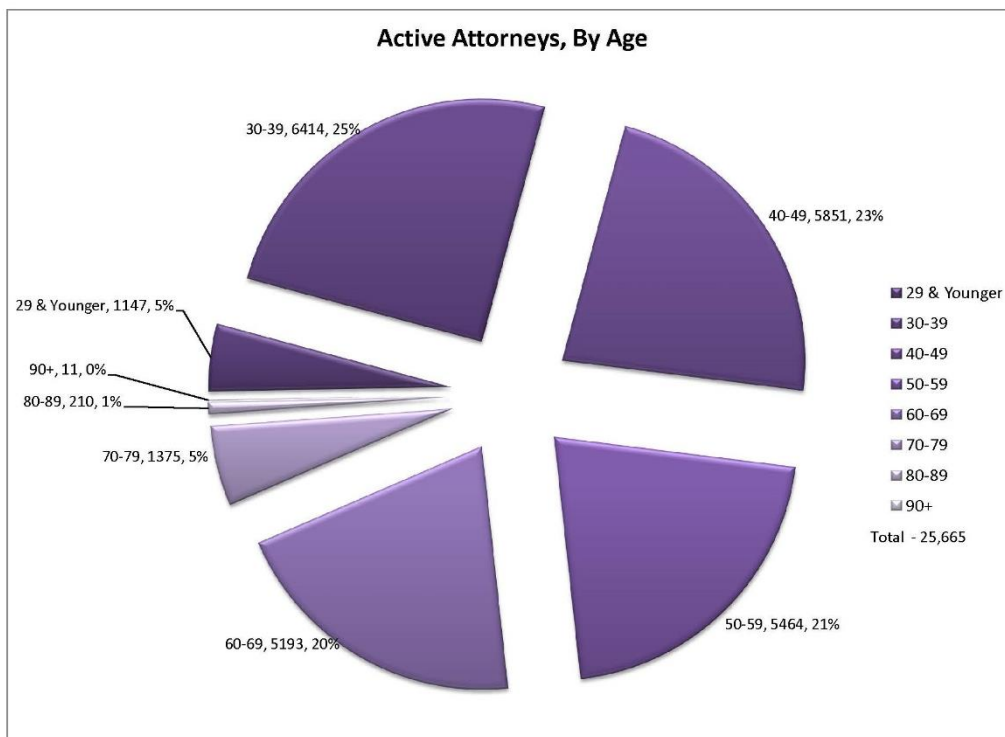
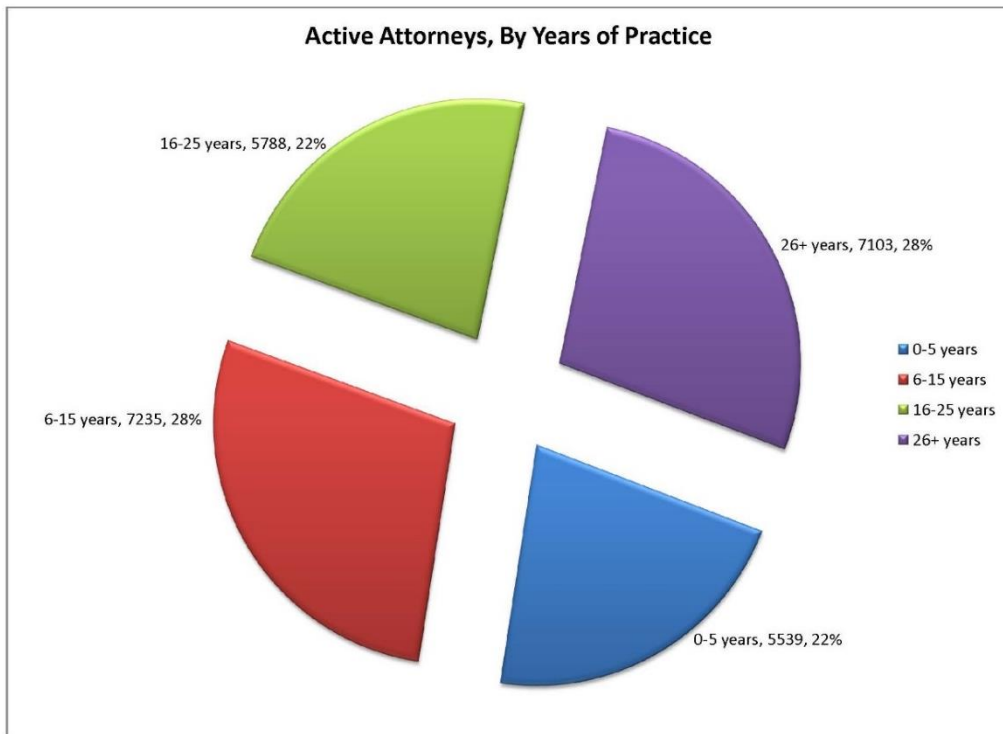


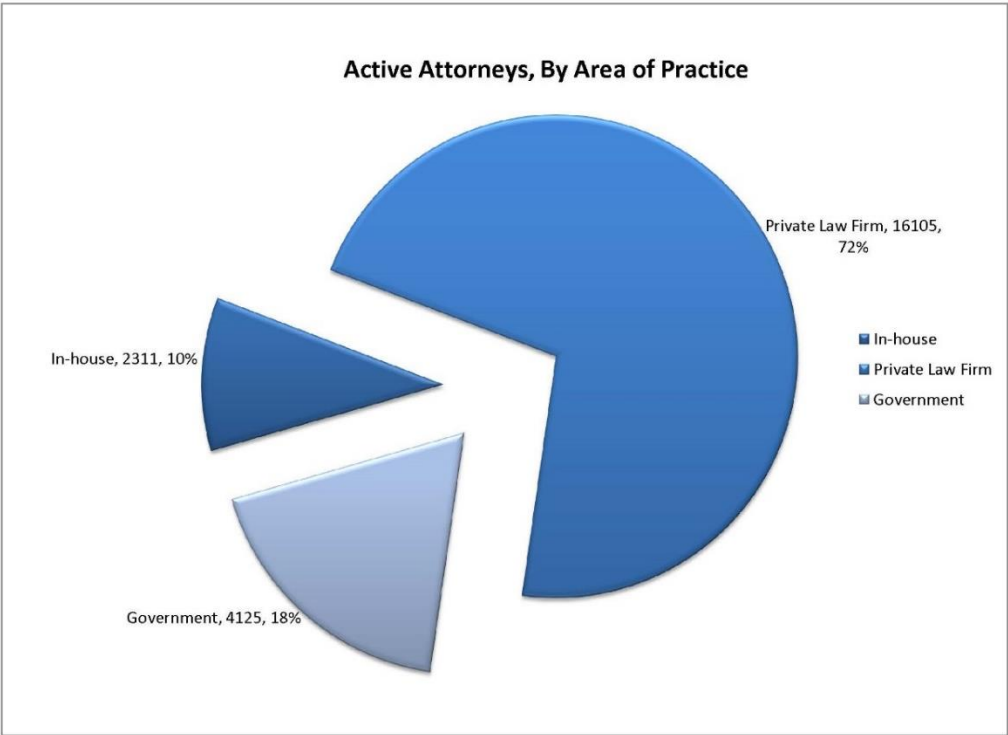












Appendix D

INTAKE STATISTICS

TABLE 1

| Year | Complaints Filed | Percent Change From Prior Year |
|------|------------------|-----------------------------------|
| 2014 | 3,528 | (9%) |
| 2013 | 3,883 | (3%) |
| 2012 | 3,983 | (2%) |
| 2011 | 4,081 | (0%) |
| 2010 | 4,089 | (2%) |
| 2009 | 4,169 | 1% |
| 2008 | 4,119 | 3% |

TABLE 2

| Year | Intake Complaint Calls | Additional Intake Calls | Additional Miscellaneous Calls |
|------|---------------------------|----------------------------|-----------------------------------|
| 2014 | 3,528 | 5,263 | 11,318 |
| 2013 | 3,883 | 4,641 | 19,349 |
| 2012 | 3,983 | 4,489 | 16,093 |
| 2011 | 4,081 | 4,473 | 15,241 |
| 2010 | 4,089 | 4,906 | 16,026 |
| 2009 | 4,169 | 4,720 | 17,014 |
| 2008 | 4,119 | 5,142 | 18,850 |

Regulation Counsel (or Chief Deputy Regulation Counsel) reviews all offers of diversion made by the central intake attorneys. Additionally, at the request of

either the complainant or the respondent-attorney, Regulation Counsel reviews any determination made by a central intake attorney.

One of the goals of central intake is to handle complaints as quickly and efficiently as possible. In 1998, prior to central intake, the average time matters spent at the intake stage was 13 weeks.

TABLE 3

| Average Time (weeks) | |
|----------------------|-----|
| 2014 | 7.7 |
| 2013 | 8.2 |
| 2012 | 1.8 |
| 2011 | 1.6 |
| 2010 | 1.7 |
| 2009 | 1.5 |
| 2008 | 1.5 |

The average time at intake is different in this annual report from previous annual reports. This is due to the following factors:

1. One of our long-tenured central intake attorneys left employment with the office in January 2014 and a new hire started in February 2014. Another central intake attorney left employment with the office in September 2014, and one of our trial lawyers moved into that position in December 2014. Finally, another long-tenured central intake attorney elected to retire in November 2014. The attorney hired to fill that position started in mid-January 2015. Because of these changes and the concomitant need to train new lawyers and reassign cases, central intake lawyers were confronted with increased caseloads and other responsibilities for much of the time period covered in this annual report.
2. Additionally, long-term absences for FMLA events resulted in extended periods of time in 2014 when central intake was understaffed.

3. Our case management software provides additional capabilities for file creation, handling and tracking that we did not have in our previous software system. JustWare gives us the capability to track files while we wait for additional information and documentation. Although we have that capability, we adopted policies to ensure files remain open only for so long as they are actively pending in the intake division. The policies implemented ensure the appropriate amount of procedural fairness for all parties involved in the attorney regulation process.

Critical to the evaluation of central intake is the number of matters processed for further investigation versus the number of cases processed for investigation prior to implementation of central intake. In 1998, prior to the implementation of central intake, 1,472 requests for investigation were filed, and 279 of those were processed for further investigation. In 2014, central intake handled 3,528 complaints; 346 of those cases were processed for further investigation. See Table 4.

TABLE 4

| Year | Investigations Initiated | % Change From Prior Year |
|------|-----------------------------|-----------------------------|
| 2014 | 346 | (5%) |
| 2013 | 366 | (1%) |
| 2012 | 368 | (2%) |
| 2011 | 377 | (7%) |
| 2010 | 407 | 1% |
| 2009 | 401 | 11% |
| 2008 | 360 | (3%) |

In conjunction with central intake, cases that are determined to warrant a public censure or less in discipline are eligible for a diversion program. See C.R.C.P. 251.13. Participation in diversion is always voluntary and may involve informal resolution of minor misconduct by referral to Ethics School and/or Trust School,²⁵

²⁵ Ethics School is a one-day program designed and conducted by the Office of Attorney Regulation Counsel. The program is a comprehensive review of an attorney's duty to his/her

fee arbitration, an educational program, or an attorney-assistance program. If the attorney successfully completes the diversion agreement, the file in the Office of Attorney Regulation Counsel is closed and treated as a dismissal. In 2014 at the central intake stage, 45 matters were resolved by diversion agreements. *See* Table 5. (A representative summary of diversion agreements is published quarterly in *The Colorado Lawyer*.)

TABLE 5

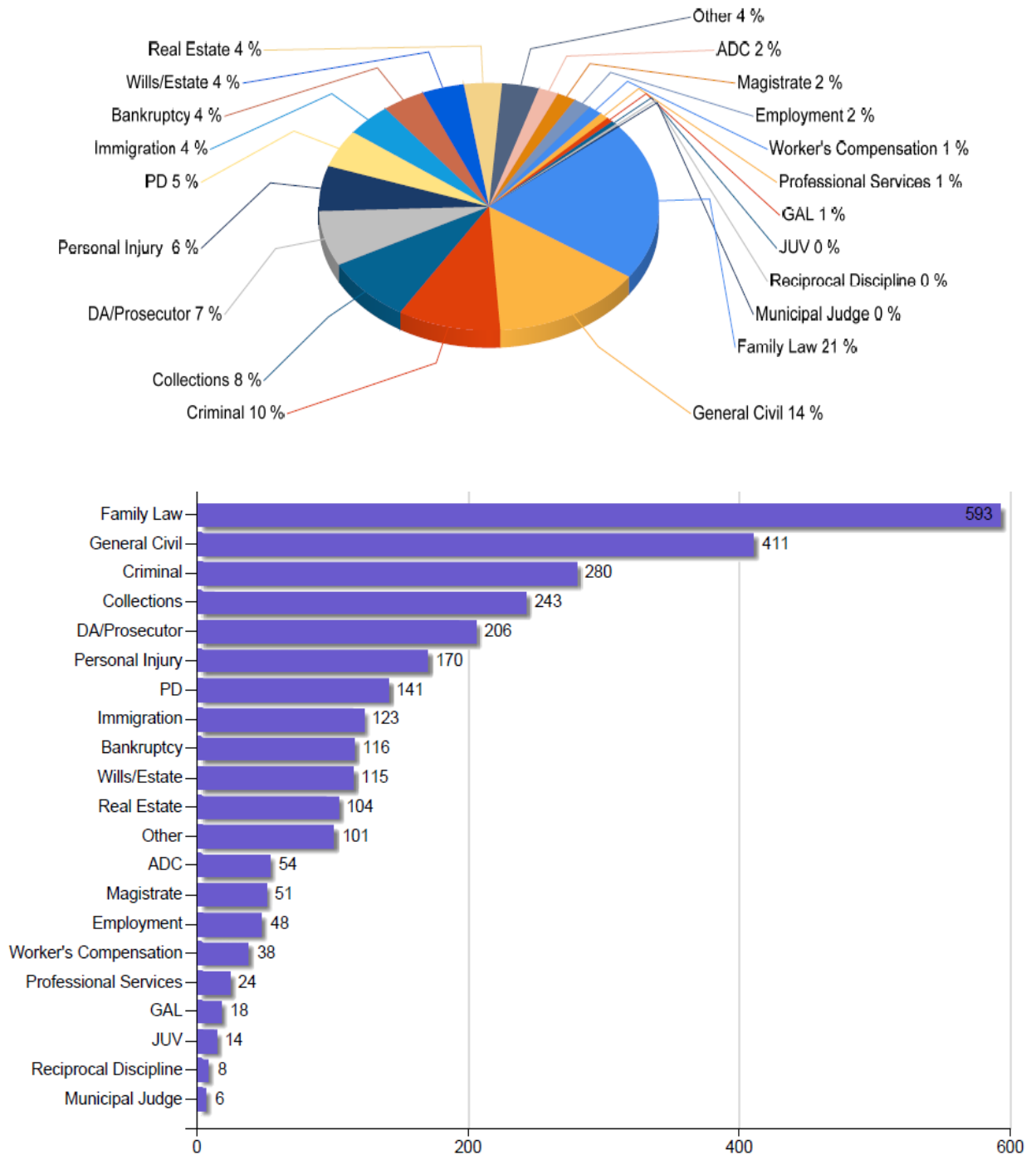
| Year | Central Intake Diversion Agreements |
|------|-------------------------------------|
| 2014 | 45 |
| 2013 | 42 |
| 2012 | 32 |
| 2011 | 42 |
| 2010 | 51(52)* |
| 2009 | 45(53)* |

*The first number is actual diversion agreements. The second number in parentheses represents the number of separate requests for investigation involved in the files.

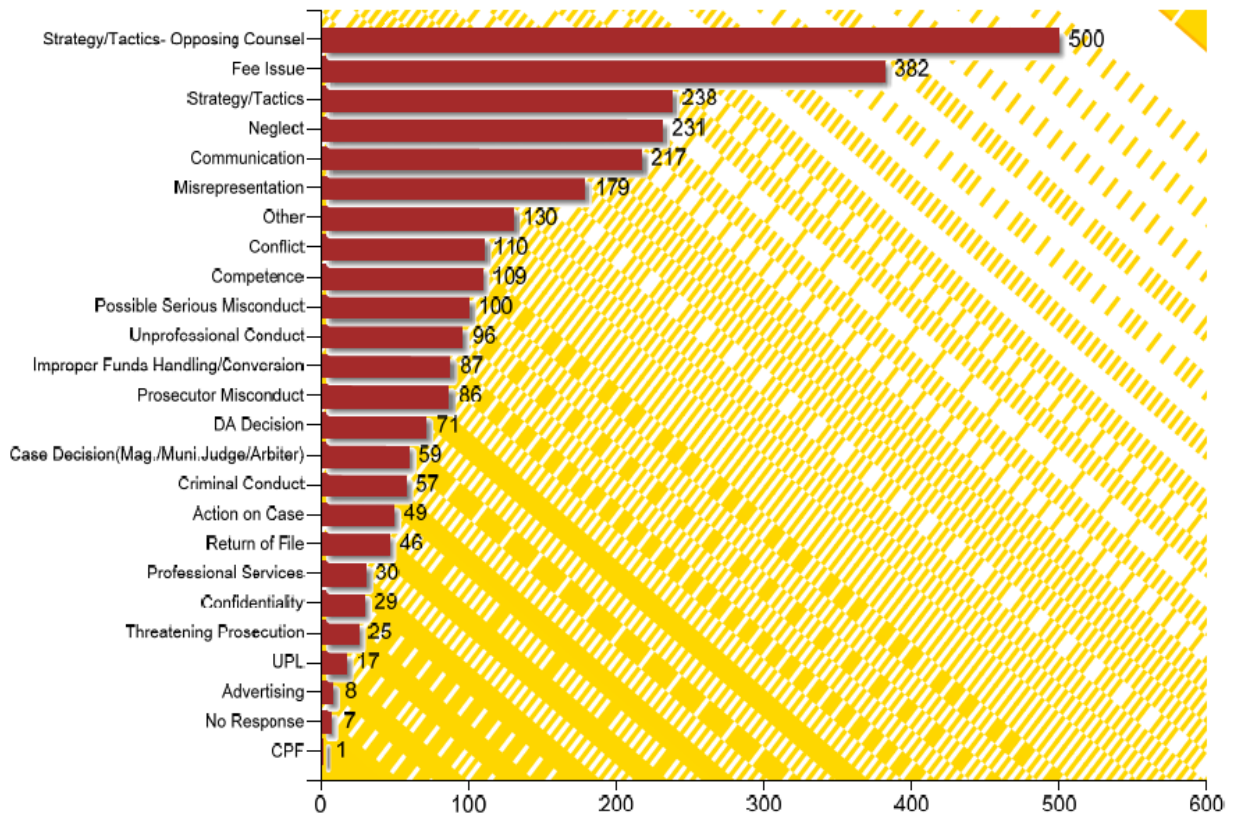
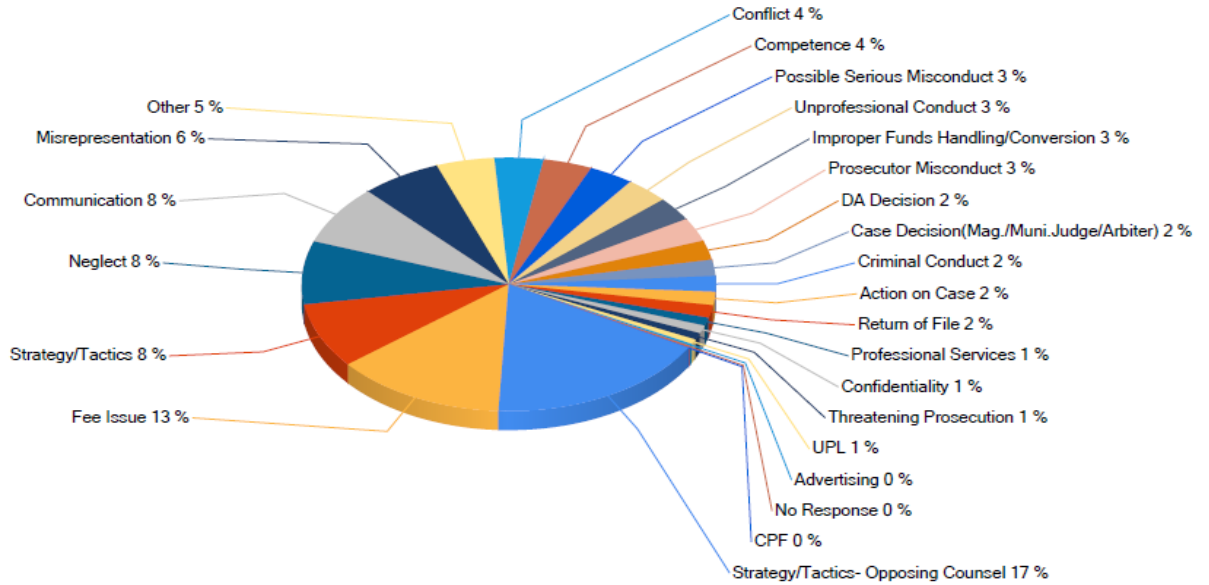
clients, courts, opposing parties and counsel, and the legal profession. The class also covers conflicts, fee issues, law office management, and trust accounts. Attendance is limited to attorneys participating in diversion agreements or otherwise ordered to attend. Trust School is a half-day program presented by the Office of Attorney Regulation Counsel. The school is available to attorneys and their staff. The class covers all aspects of an attorney's fiduciary responsibility regarding the administration of a trust account. The class also offers instruction on accounting programs available for trust and operating accounts.

Appendix E

Central Intake Inquiries (by practice area)
January 31, 2014 – December 31, 2014



Central Intake Inquiries (by nature of complaint)
January 31, 2014 – December 31, 2014



Appendix F

INVESTIGATION STATISTICS

Matters docketed for further investigation are assigned to trial counsel within the Office of Attorney Regulation Counsel.

Trial counsel also investigates Unauthorized Practice of Law matters and Attorneys' Fund for Client Protection matters. Statistics relating to the unauthorized practice of law are covered under a separate heading in this report. The Attorneys' Fund for Client Protection report is filed separately.

TABLE 6

| Year | Investigations Initiated | Dismissed by Regulation Counsel | To Presiding Disciplinary Judge | To Attorney Regulation Committee | Directly to Presiding Disciplinary Judge | Placed in Abeyance | Other | Pending |
|------|--------------------------|---------------------------------|---------------------------------|----------------------------------|--|--------------------|-------|---------|
| 2014 | 346 | 76 | 20(24)* | 143(151) | 14(16) | 60*** | 0 | 250 |
| 2013 | 366 | 100 | 16(25)* | 143(153)* | 11(14)* | 27 | 0 | 231 |
| 2012 | 368 | 92 | 17(25)* | 165(171)* | 11(17)* | 13(32)* | 0 | 184 |
| 2011 | 377 | 204 | 35(44)* | 143(154)* | 11 | 18(20)* | 0 | 153 |
| 2010 | 407 | 128 | 25(39)* | 217(223)* | 14(29)* | 30** | 0 | 187 |
| 2009 | 401 | 140 | 25(33)* | 115(122)* | 8 | 7(12)* | 0 | 229 |
| 2008 | 360 | 169 | 24(33)* | 125(130)* | 16(26) | 7* | 0 | 143 |

*The first number is actual files. The second number in parentheses represents the number of separate requests for investigation involved in the files.

**Twenty of the thirty matters placed in abeyance concerned one respondent.

***Forty of the sixty matters placed in abeyance concerned one respondent.

Dismissals With Educational Language

In October 2004, the Office of Attorney Regulation Counsel began tracking matters that are dismissed with educational language. The dismissals occur both at the intake stage and the investigative stage. In 2014, 190 matters were dismissed with educational language both at the intake stage and the investigative stage. Some of

the matters involve *de minimis* violations that would have been eligible for diversion. Some of the dismissals require attendance at Ethics School or Trust Account School. *See* Table 7.

TABLE 7

Dismissals With Educational Language

| Year | Intake Stage | Investigative | Total |
|------|--------------|---------------|-------|
| 2014 | 181 | 9 | 190 |
| 2013 | 113 | 20 | 133 |
| 2012 | 132 | 4 | 136 |
| 2011 | 199 | 25 | 224 |
| 2010 | 223 | 29 | 252 |
| 2009 | 159 | 27 | 186 |
| 2008 | 128 | 55 | 183 |

Review of Regulation Counsel Dismissals

A complainant may appeal Regulation Counsel’s determination to dismiss the matter to the full Attorney Regulation Committee. If review is requested, the Attorney Regulation Committee must review the matter and make a determination as to whether Attorney Regulation Counsel’s determination was an abuse of discretion. *See* C.R.C.P. 251.11; *see* Table 8.

TABLE 8

| Year | Number of Review Requests | Regulation Counsel Sustained | Regulation Counsel Reversed |
|------|---------------------------|------------------------------|-----------------------------|
| 2014 | 0 | 0 | 0 |
| 2013 | 1 | 1 | 0 |
| 2012 | 1 | 1 | 0 |
| 2011 | 2 | 2 | 0 |
| 2010 | 0 | 0 | 0 |
| 2009 | 4 | 4 | 0 |
| 2008 | 2 | 2 | 0 |

Appendix G

ATTORNEY REGULATION COMMITTEE (ARC)

The Attorney Regulation Committee is composed of nine members, six attorneys and three public members appointed by the Supreme Court with assistance from the Court's Advisory Committee. One of the Attorney Regulation Committee's primary functions is to review investigations conducted by Attorney Regulation Counsel and determine whether there is reasonable cause to believe grounds for discipline exist. *See* C.R.C.P. 251.12. Following review of the investigation conducted by Attorney Regulation Counsel, the Attorney Regulation Committee may dismiss the allegations, divert the matter to the alternatives to discipline program, order a private admonition be imposed, or authorize Attorney Regulation Counsel to file a formal complaint against the respondent-attorney.

In 2014 the Attorney Regulation Committee reviewed 181 matters. *See* Table 9.

TABLE 9

| Cases Reviewed by ARC | |
|-----------------------|-----|
| 2014 | 181 |
| 2013 | 180 |
| 2012 | 171 |
| 2011 | 154 |
| 2010 | 225 |
| 2009 | 122 |
| 2008 | 126 |

TABLE 10

| Number of Requests for Investigation Dismissed After Investigation by the Attorney Regulation Committee | |
|--|---|
| 2014 | 0 |
| 2013 | 0 |
| 2012 | 0 |
| 2011 | 0 |
| 2010 | 2 |
| 2009 | 0 |
| 2008 | 1 |

TABLE 11

| Number of Weeks from Case Assigned to Dismissal by Regulation Counsel/ARC | |
|--|------|
| 2014 | 27.1 |
| 2013 | 26.9 |
| 2012 | 25.4 |
| 2011 | 30.3 |
| 2010 | 24.2 |
| 2009 | 22.2 |
| 2008 | 19.4 |

The Attorney Regulation Committee's disposition of the 181 matters presented to the Committee is detailed in Table 12.²⁶

²⁶ Because some matters are carried over from one calendar year to the next, the number of matters reviewed by the Attorney Regulation Committee and the number of matters dismissed by Regulation Counsel generally will not conform to the number of cases docketed or completed in the investigation area. *See* Tables 4, 6, and 9

TABLE 12

| Year | Formal Proceedings | Diversion Agreements | Private Admonition | Conditional Admissions | Dismissals | Total Cases Acted Upon By ARC |
|------|--------------------|----------------------|--------------------|------------------------|------------|-------------------------------|
| 2014 | 102 | 37(45)* | 4 | 0 | 0 | 163(181)* |
| 2013 | 101 | 36(44)* | 6(8)* | 0 | 0 | 170(180)* |
| 2012 | 123 | 33(39)* | 9 | 0 | 0 | 165(171)* |
| 2011 | 95 | 36(46)* | 12(13)* | 0 | 0 | 143(154)* |
| 2010 | 175 | 37(42)* | 5(6)* | 0 | 2 | 219(225)* |
| 2009 | 87 | 20(25)* | 2(10)* | 0 | 0 | 109(122)* |
| 2008 | 95 | 24(28)* | 6(7)* | 0 | 1 | 126(131)* |

*The first number is actual files. The second number in parentheses represents the number of separate requests for investigation involved in the files.

TABLE 13

| Number of Weeks from Case Assigned to Completion of Report/Diversion/Stipulation | |
|--|------|
| 2014 | 24.7 |
| 2013 | 25.7 |
| 2012 | 24.8 |
| 2011 | 25.4 |
| 2010 | 23.2 |
| 2009 | 22.7 |
| 2008 | 19.6 |

Appendix H

FORMAL COMPLAINTS

In 102 separate matters, the Attorney Regulation Committee found reasonable cause and authorized Attorney Regulation Counsel to file a formal complaint. *See* C.R.C.P. 251.12(e). Several matters were consolidated, and the number of formal complaints filed in 2014 was 41. In certain cases, after authority to file a formal complaint is obtained, Attorney Regulation Counsel and Respondent enter into a Conditional Admission to be filed with the Presiding Disciplinary Judge without the filing of a formal complaint. *See* Table 14.

TABLE 14

| Year | Formal Complaints Filed | Resolved Prior to Complaint Filed |
|------|-------------------------|-----------------------------------|
| 2014 | 41(56)* | 7(8)* |
| 2013 | 48(73)* | 8(12)* |
| 2012 | 47(92)* | 2(5)* |
| 2011 | 35(90)* | 9(19)* |
| 2010 | 85(184)* | 10(20)* |
| 2009 | 44(68)* | 13(15)* |
| 2008 | 55(99)* | 13(23)* |

*The first number is actual files. The second number in parentheses represents the number of separate requests for investigation involved in the files.

The formal complaints filed, and those pending from 2013, in the attorney discipline area resulted in 10 disciplinary trials; 5 sanctions hearings, and 1 reinstatement hearing. The trial division also participated in additional matters before the Presiding Disciplinary Judge (at issue conferences, status conferences, and pretrial conferences). Disposition of the matters is detailed in Table 15.

TABLE 15

| Year | Attorney Discipline Trials | Reinstatement Hearings | Conditional Admissions | Diversion Agreements | Dismissals | Abeyance |
|------|----------------------------|------------------------|------------------------|----------------------|------------|----------|
| 2014 | 16 | 1 | 27(46)* | 1 | 1 | 0 |
| 2013 | 10 | 2 | 17(25)* | 0 | 0 | 0 |
| 2012 | 11 | 3 | 24(53)* | 0 | 3 | 0 |
| 2011 | 22 | 3 | 43(91)* | 2 | 7 | 1 |
| 2010 | 22(29)* | 2 | 40(94)* | 2 | 2 | 2 |
| 2009 | 16(32)* | 1 | 42(65)* | 0 | 3 | 4 |
| 2008 | 15(23)* | 2 | 43(63)* | 5(7)* | 2 | 5 |

*The first number represents actual files; the second number in parentheses represents the number of separate requests for investigation involved in the files.

A diversion agreement is an alternative to discipline. Diversion agreements are useful in less serious matters in which an attorney must comply with certain conditions, which may include mediation, fee arbitration, law office management assistance, evaluation and treatment through the attorneys' peer assistance program, evaluation and treatment for substance abuse, psychological evaluation and treatment, medical evaluation and treatment, monitoring of the attorney's practice or accounting procedures, continuing legal education, ethics school, the multistate professional responsibility examination, or any other program authorized by the Court. *See* Table 16.

TABLE 16

| Diversion Agreements at Intake Stage | |
|--------------------------------------|---------|
| 2014 | 45 |
| 2013 | 42 |
| 2012 | 32 |
| 2011 | 42 |
| 2010 | 51(52)* |
| 2009 | 45(53)* |
| 2008 | 45(49)* |

| Diversion Agreements at Investigative Stage Approved by the Attorney Regulation Committee | |
|--|---------|
| 2014 | 37(45)* |
| 2013 | 31(42)* |
| 2012 | 33(39)* |
| 2011 | 36(46)* |
| 2010 | 37(42)* |
| 2009 | 20(25)* |
| 2008 | 24(28)* |

| Diversion Agreements at Trial Stage Approved by the Presiding Disciplinary Judge | |
|---|-------|
| 2014 | 1 |
| 2013 | 0 |
| 2012 | 0 |
| 2011 | 2 |
| 2010 | 2 |
| 2009 | 0 |
| 2008 | 5(7)* |

| Conditional Admissions at Investigative Stage Approved by the Presiding Disciplinary Judge | |
|---|---------|
| 2014 | 20(24)* |
| 2013 | 16(25)* |
| 2012 | 17(25)* |
| 2011 | 35(44)* |
| 2010 | 25(39)* |
| 2009 | 25(33)* |
| 2008 | 24(43)* |

| Conditional Admissions at Trial Stage Approved by the Presiding Disciplinary Judge | |
|---|---------|
| 2014 | 27(46)* |
| 2013 | 17(25)* |
| 2012 | 24(53)* |
| 2011 | 43(91)* |
| 2010 | 40(94)* |
| 2009 | 42(65)* |
| 2008 | 42(63)* |

*The first number represents actual files; the second number in parentheses represents the number of separate requests for investigation involved in the files.

After a formal complaint is filed with the Presiding Disciplinary Judge, the matter may be resolved by dismissal, diversion, conditional admission of misconduct,²⁷ or by trial. The following tables compare the length of time formal complaints are pending before Presiding Disciplinary Judge. Additionally, a comparison of the time period from the filing of the formal complaint until a conditional admission of misconduct is filed, and a comparison of the time period from the filing of the formal complaint to trial, is provided.

TABLE 17

| Year | Average Weeks From Filing of Formal Complaint to Conditional Admission/Diversion Filed | |
|------|---|------------|
| 2014 | Presiding Disciplinary Judge | 26.1 weeks |
| 2013 | Presiding Disciplinary Judge | 23.0 weeks |
| 2012 | Presiding Disciplinary Judge | 27.3 weeks |
| 2011 | Presiding Disciplinary Judge | 31.9 weeks |
| 2010 | Presiding Disciplinary Judge | 25.2 weeks |
| 2009 | Presiding Disciplinary Judge | 19.6 weeks |
| 2008 | Presiding Disciplinary Judge | 18.7 weeks |

²⁷ Pursuant to C.R.C.P. 251.22, at any point in the proceedings prior to final action by a Hearing Board, an attorney against whom proceedings are pending may tender a conditional admission of misconduct. The conditional admission constitutes grounds for discipline in exchange for a stipulated form of discipline. The conditional admission must be approved by Attorney Regulation Counsel prior to its submission.

| Year | Average Weeks From Filing of Formal Complaint to Trial | |
|------|--|------------|
| 2014 | Presiding Disciplinary Judge | 27.6 weeks |
| 2013 | Presiding Disciplinary Judge | 33.5 weeks |
| 2012 | Presiding Disciplinary Judge | 25.9 weeks |
| 2011 | Presiding Disciplinary Judge | 39.7 weeks |
| 2010 | Presiding Disciplinary Judge | 32.3 weeks |
| 2009 | Presiding Disciplinary Judge | 41.6 weeks |
| 2008 | Presiding Disciplinary Judge | 40.8 weeks |

Another comparison is the average time it takes from the filing of the formal complaint with the Presiding Disciplinary Judge until the Presiding Disciplinary Judge issues a final order.

TABLE 18

| Average Weeks from the Filing of the Formal Complaint Until the Final Order is Issued by the Presiding Disciplinary Judge | | |
|---|---|------------|
| | Conditional Admission or Diversion Filed | Trial Held |
| 2014 | 28.8 weeks | 42.7 weeks |
| 2013 | 22.3 weeks | 36.4 weeks |
| 2012 | 32.9 weeks | 62.3 weeks |
| 2011 | 30.6 weeks | 41.8 weeks |
| 2010 | 26.4 weeks | 49.7 weeks |
| 2009 | 20.3 weeks | 61.1 weeks |
| 2008 | 24.6 weeks | 57.2 weeks |

Appendix I

APPEALS

In 2014, five attorney discipline appeals were filed with the Court.

TABLE 19

| Year | Appeal Filed With: | Number of Appeals |
|------|------------------------|-------------------|
| 2014 | Colorado Supreme Court | 5 |
| 2013 | Colorado Supreme Court | 4 |
| 2012 | Colorado Supreme Court | 8 |
| 2011 | Colorado Supreme Court | 14 |
| 2010 | Colorado Supreme Court | 6 |
| 2009 | Colorado Supreme Court | 4 |
| 2008 | Colorado Supreme Court | 2 |

| Year | Appeals Filed | Appeals Dismissed | Appeals Affirmed | Appeals Reversed | Appeals Pending |
|------|------------------|----------------------|---------------------|---------------------|--------------------|
| 2014 | 5 | 1 | 1 | 1 | 3 |
| 2013 | 4 | 0 | 4 | 0 | 4 |
| 2012 | 8 | 2 | 4 | 0 | 3 |
| 2011 | 14 | 3 | 5 | 1 | 9 |
| 2010 | 6 | 1 | 1 | 0 | 4 |
| 2009 | 4 | 0 | 4 | 0 | 3 |
| 2008 | 2 | 0 | 4 | 0 | 1 |

Appendix J

FINAL DISPOSITIONS

Final dispositions of proceedings are reflected in Table 20.

TABLE 20

| Year | Abeyance | Dismissals | Diversions | Public Censures | Suspensions | Probations | Disbarments |
|------|----------|------------|------------|--------------------|-------------|------------|-------------|
| 2014 | 0 | 1 | 1 | 1 | 44(73)* | 27(40)* | 9(32)* |
| 2013 | 0 | 0 | 0 | 5 | 46(61)* | 25(43)* | 18(27)* |
| 2012 | 0 | 3 | 0 | 8 | 43 | 21 | 8 |
| 2011 | 2 | 7 | 2 | 9 | 60(61)* | 40 | 16 |
| 2010 | 2 | 2 | 2 | 15 | 56(59)* | 29 | 9 |
| 2009 | 4 | 3 | 0 | 9 | 52(54)* | 28(29)* | 8(11)* |
| 2008 | 5 | 2 | 5(7)* | 5 | 51 | 35 | 10 |

*The first number represents actual files; the second number in parentheses represents the number of separate requests for investigation involved in the files.

Appendix K

Other Actions

Immediate Suspensions

In 2014, the Office of Attorney Regulation Counsel filed 19 petitions for immediate suspension.²⁸ The petitions are filed directly with the Presiding Disciplinary Judge or the Colorado Supreme Court. The Presiding Disciplinary Judge or a Justice of the Supreme Court may issue an order to show cause why the respondent-attorney should not be immediately suspended. The respondent-attorney may request a prompt hearing if the Supreme Court enters an order to show cause. Dispositions of the immediate suspension petitions are reflected in Table 21.

TABLE 21

| Year | Filed | Suspended | Suspended (Child Support) | Suspended (Failure to Cooperate) | Felony Conviction | Reinstated | Withdrawn | Discharged/ Denied | Pending |
|------|-------|-----------|---------------------------------|--|----------------------|------------|-----------|-----------------------|---------|
| 2014 | 19 | 5 | 0 | 5 | 3 | 0 | 5 | 0 | 1 |
| 2013 | 14 | 8 | 1 | 3 | 1 | 0 | 1 | 0 | 0 |
| 2012 | 16 | 3 | 0 | 6 | 0 | 2 | 0 | 3 | 1 |
| 2011 | 14 | 3 | 2 | 3 | 3 | 0 | 0 | 2 | 1 |
| 2010 | 19* | 12 | 0 | 4 | 1 | 0 | 0 | 2 | 0 |
| 2009 | 17 | 7 | 0 | 6 | 1 | 0 | 0 | 4 | 1 |
| 2008 | 15 | 10 | 0 | 4 | 1 | 0 | 0 | 4 | 1 |

²⁸ Immediate suspension is the temporary suspension by the Supreme Court of an attorney's license to practice law. Ordinarily, an attorney's license is not suspended during the pendency of disciplinary proceedings, but when there is reasonable cause to believe that an attorney is causing or has caused immediate and substantial public or private harm, immediate suspension may be appropriate. Petitions are typically filed when an attorney has converted property or funds, the attorney has engaged in conduct that poses an immediate threat to the administration of justice, or the attorney has been convicted of a serious crime. *See* C.R.C.P. 251.8. Additionally, under C.R.C.P. 251.8.5, a petition for immediate suspension may be filed if an attorney is in arrears on a child-support order. Note: On October 29, 2001, the Supreme Court adopted a rule change authorizing suspension of an attorney for failure to cooperate with Regulation Counsel. *See* C.R.C.P. 251.8.6. The rule change authorizes Regulation Counsel to file a petition directly with the Supreme Court alleging that an attorney is failing to cooperate in an investigation alleging serious misconduct. Proceedings under the rule are not disciplinary proceedings. *See* Comment to Rule 251.8.6.

(Matters filed in the previous calendar year may be carried over to the next calendar year.)

*One matter resulted in the attorney being disbarred.

Disability Matters

The Office of Attorney Regulation Counsel filed 15 petitions/stipulations to transfer attorneys to disability inactive status in 2014. When an attorney is unable to fulfill his/her professional responsibilities because of physical, mental, or emotional illness, disability proceedings are initiated. An attorney who has been transferred to disability inactive status may file a petition for reinstatement with the Presiding Disciplinary Judge. *See Table 22.*

TABLE 22

| Year | Filed | Disability Inactive Status | Dismissed/ Discharged/ Denied | Reinstated | Withdrawn | Pending |
|------|-------|----------------------------|-------------------------------|------------|-----------|---------|
| 2014 | 15 | 13 | 2 | 0 | 0 | 1 |
| 2013 | 7 | 5 | 2 | 0 | 0 | 0 |
| 2012 | 8 | 9 | 2 | 0 | 0 | 0 |
| 2011 | 10 | 8 | 1 | 1 | 0 | 3 |
| 2010 | 6 | 4 | 1* | 0 | 0 | 1 |
| 2009 | 13 | 14 | 2 | 2 | 1 | 2 |
| 2008 | 19* | 12 | 1 | 2 | | 5 |

(Matters filed in the previous calendar year may be carried over to the next calendar year.)

*One matter was closed due to the death of the respondent during the proceedings.

Contempt Proceedings

The Office of Attorney Regulation Counsel filed three motions recommending contempt with the Supreme Court resulting in 2 hearings before the court. Contempt proceedings are filed when an attorney practices law while under suspension or disbarment. *See Table 23.*

TABLE 23

| Year | Motions for Contempt | Held in Contempt | Discharged\ Dismissed | Withdrawn | Pending |
|------|----------------------|------------------|-----------------------|-----------|---------|
| 2014 | 3 | 3 | 0 | 0 | 1 |
| 2013 | 1 | 0 | 0 | 0 | 1 |
| 2012 | 0 | 0 | 0 | 0 | 0 |
| 2011 | 1 | 0 | 0 | 0 | 1 |
| 2010 | 1 | 0 | 0 | 0 | 1 |
| 2009 | 0 | 0 | 0 | 0 | 0 |
| 2008 | 1 | 1 | 0 | 0 | 0 |

(Matters filed in the previous calendar year may be carried over to the next calendar year.)

Magistrates

Effective July 2000, the Office of Attorney Regulation Counsel undertook the responsibility of handling complaints against magistrates. *See* C.R.C.P. 251.1(b). In the year 2014, the Office of Attorney Regulation Counsel received 45 complaints against magistrates. *See* Table 24.

TABLE 24

| Year | Complaints | Dismissed | Diversion | Investigation Initiated |
|------|------------|-----------|-----------|-------------------------|
| 2014 | 45 | 43 | 0 | 2 pending |
| 2013 | 43 | 43 | 0 | 0 |
| 2012 | 45 | 42 | 1 | 2 |
| 2011 | 66 | 66 | 0 | 0 |
| 2010 | 55 | 55 | 0 | 0 |
| 2009 | 51 | 51 | 0 | 0 |
| 2008 | 49 | 49 | 0 | 0 |

Reinstatement and Readmission Matters

Eight reinstatement or readmission matters were filed with the Office of Attorney Regulation Counsel in 2014. When an attorney has been suspended for at least one

year and one day, has been disbarred, or the court's order requires reinstatement, he/she must seek reinstatement or apply for readmission to the Bar.²⁹

²⁹ A disbarred attorney may seek readmission eight years after the effective date of the order of disbarment. The individual must retake and pass the Colorado Bar examination and demonstrate fitness to practice law. Any attorney suspended for a period of one year and one day or longer must file a petition for reinstatement with the Presiding Disciplinary Judge. In some matters, reinstatement proceedings are ordered when the suspension is less than one year and one day. *See* C.R.C.P. 251.29.

TABLE 25

| Year | Filed | Readmitted | Reinstated | Dismissed | Withdrawn | Denied | Pending |
|------|-------|------------|------------|-----------|-----------|--------|---------|
| 2014 | 8 | 0 | 4 | 1 | 0 | 1 | 4 |
| 2013 | 6 | 1 | 1 | 0 | 1 | 0 | 3 |
| 2012 | 8 | 0 | 4 | 1 | 0 | 1 | 6 |
| 2011 | 3 | 1 | 6 | 0 | 0 | 1 | 3 |
| 2010 | 12 | 0 | 5 | 0 | 2 | 1 | 6 |
| 2009 | 6 | 1 | 1 | 1 | 4 | 0 | 5 |
| 2008 | 10 | 1 | 7 | 0 | 0 | 0 | 2 |

(Matters filed in the previous calendar year may be carried over to the next calendar year.)

Trust Account Notification Matters

All Colorado attorneys in private practice must maintain a trust account at a financial institution doing business in Colorado. The financial institution must agree to report to Regulation Counsel any properly payable trust account instrument presented against insufficient funds, irrespective of whether the instrument is honored. The report by the financial institution must be made within five banking days of the date of presentation for payment against insufficient funds.

The reporting requirement is a critical aspect of the Attorneys' Fund for Client Protection. The rule is designed to operate as an "early warning" that an attorney may be engaging in conduct that might injure clients.

In 2014, the Office of Attorney Regulation Counsel received 269 notices of trust account checks drawn on insufficient funds. Because of the potentially serious nature, the reports receive immediate attention from the Office of Attorney Regulation Counsel. An investigator or attorney is required to contact the attorney account holder and the financial institution making the report. A summary of the investigator's finding is then submitted to Attorney Regulation Counsel for review. If Attorney Regulation Counsel determines that there is reasonable cause to believe that a conversion of client funds occurred, the matter is immediately assigned to

trial counsel. If there is no evidence of intentional misconduct or inappropriate accounting practices, the matter is dismissed by Attorney Regulation Counsel.

TABLE 26

| Year | Total Reports | Bank Errors | Bookkeeping / Deposit Errors | Checks Cashed Prior To Deposit Clearing/ Improper Endorsement ^{†***} | Conversion/ Commingling Assigned to Trial Attorney | Diversion | Other ³⁰ | DWEL |
|------|---------------|-------------|------------------------------|---|--|-----------|---------------------|------|
| 2014 | 269 | 13 | 60 | 20 | 7(14) | 5 | 86 | |
| 2013 | 247 | 25(5)** | 51(19)** | 30(12)** | 8(22) | 0 | 141(29)* | 33 |
| 2012 | 262 | 31(1)** | 69(11)** | 49(22)** | 0*** | 0 | 106(18)* | 33 |
| 2011 | 256 | 25 | 111(19)** | 28(15)** | 23 | 2 | 60(9)** | 26 |
| 2010 | 276 | 34(2)** | 125(22)** | 29(16)** | 12 | 4(5)* | 64(8)** | 19 |
| 2009 | 278 | 34(1)** | 125(22)** | 23(17)** | 14 | 5(6)* | 64(10)** | 11 |
| 2008 | 273 | 31 | 92(11)** | 48(13)** | 18 | 7(12)* | 72(15)* | 22 |

*The first number represents actual files; the number in parentheses represents the number of separate requests for investigation involved in the files.

**The number in parentheses represents the number of cases that were dismissed with educational language.

***In 2012, four matters involved checks that were not endorsed or endorsed improperly. Because of the switch in tracking software, we are unable to accurately state the number of conversion cases processed in 2012.

³⁰ The category Other includes errors due to unanticipated credit card fees or charges, employee theft, forgery, stolen check or other criminal activity, check written on wrong account, charge back item (a fee charged to the law for a client's NSF check) and check or wire fee not anticipated.

Appendix L

Unauthorized Practice of Law

The Office of Attorney Regulation Counsel investigates and prosecutes allegations of the unauthorized practice of law. In 2014, the Office of Attorney Regulation Counsel received 72 complaints regarding the unauthorized practice of law. *See* Table 27.

TABLE 27

| UPL Complaints Received | |
|-------------------------|-----|
| 2014 | 72 |
| 2013 | 59 |
| 2012 | 80 |
| 2011 | 147 |
| 2010 | 94 |
| 2009 | 144 |
| 2008 | 97 |

The Unauthorized Practice of Law Committee may direct trial counsel to seek a civil injunction by filing a petition with the Supreme Court or, in the alternative, offer the respondent an opportunity to enter into a written agreement to refrain from the conduct in question, to refund any fees collected, and to make restitution. Additionally, trial counsel may institute contempt proceedings against a respondent that is engaged in the unauthorized practice of law. *See* C.R.C.P. 238.

In 2014, the Unauthorized Practice of Law Committee took action on 33 unauthorized practice of law matters, and 35 complaints were dismissed by Regulation Counsel, for a total of 68 completed matters. *See* Table 28.

TABLE 28

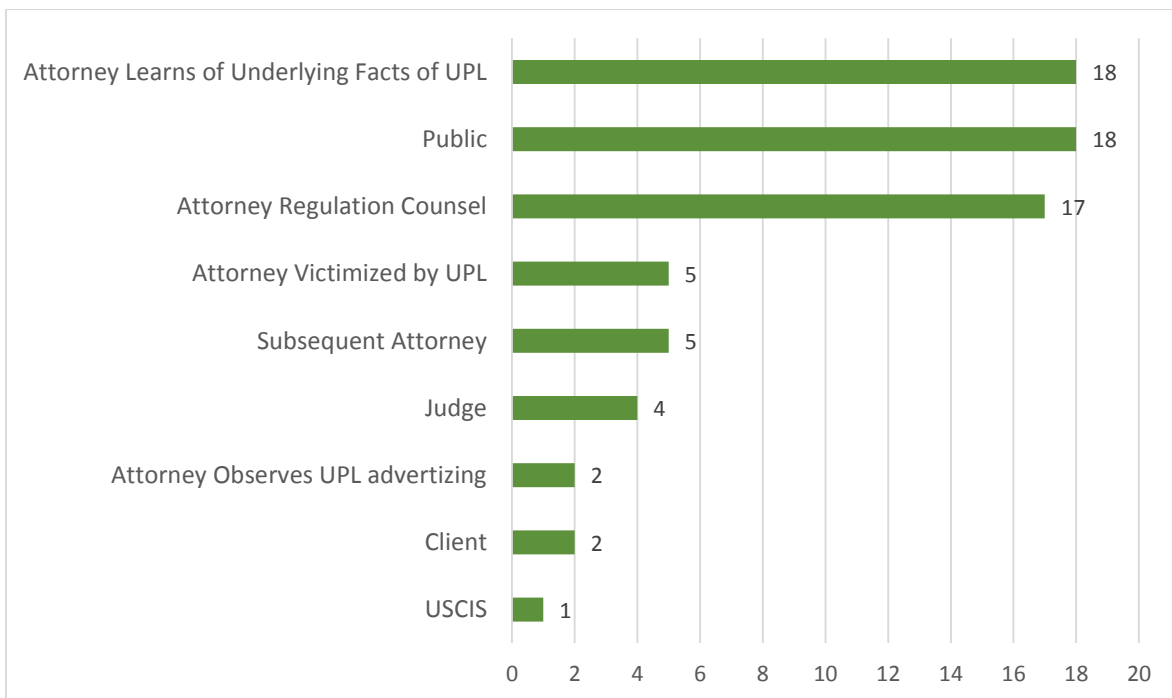
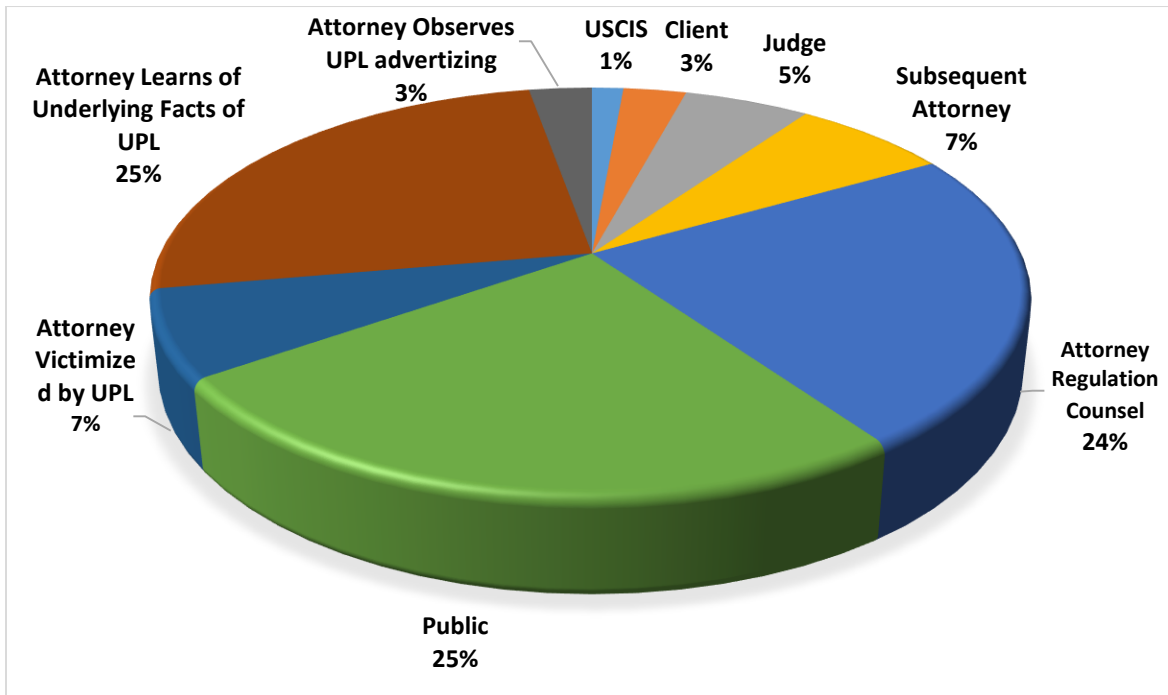
| Unauthorized Practice of Law Dispositions | | | | | | |
|---|-------|--|--|----------|------------|--|
| Year | Filed | Dismissed by Regulation Counsel | Dismissed After Investigation by UPL Committee | Abeyance | Agreements | Formal (injunctive or contempt proceedings) |
| 2014 | 73 | 35 | 0 | 0 | 14 | 19 |
| 2013 | 59 | 20 | 0 | 0 | 3 | 13 |
| 2012 | 80 | 64 | 0 | 0 | 13 | 29 |
| 2011 | 147 | 47 | 0 | 0 | 14 | 27 |
| 2010 | 94 | 24 | 0 | 2 | 4 | 25 |
| 2009 | 144 | 33(6) ** | 0 | 0 | 12 | 17(25)* |
| 2008 | 97 | 25(17)** | 0 | 0 | 4 | 17(26)* |

*The first number represents actual files; the number in parentheses represents the number of separate requests for investigation involved in the files.

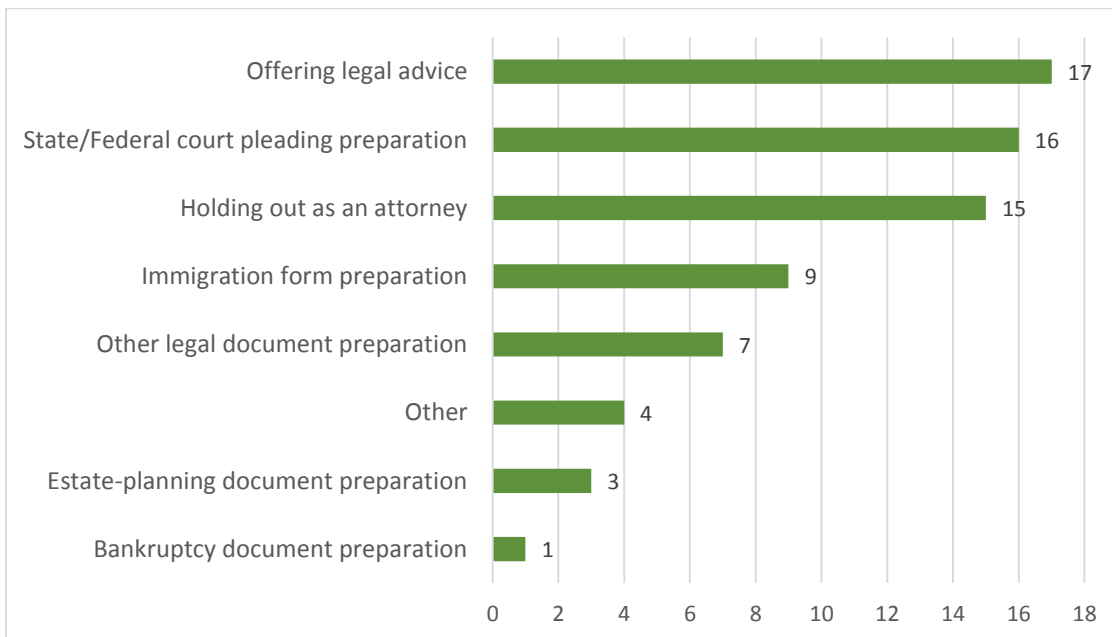
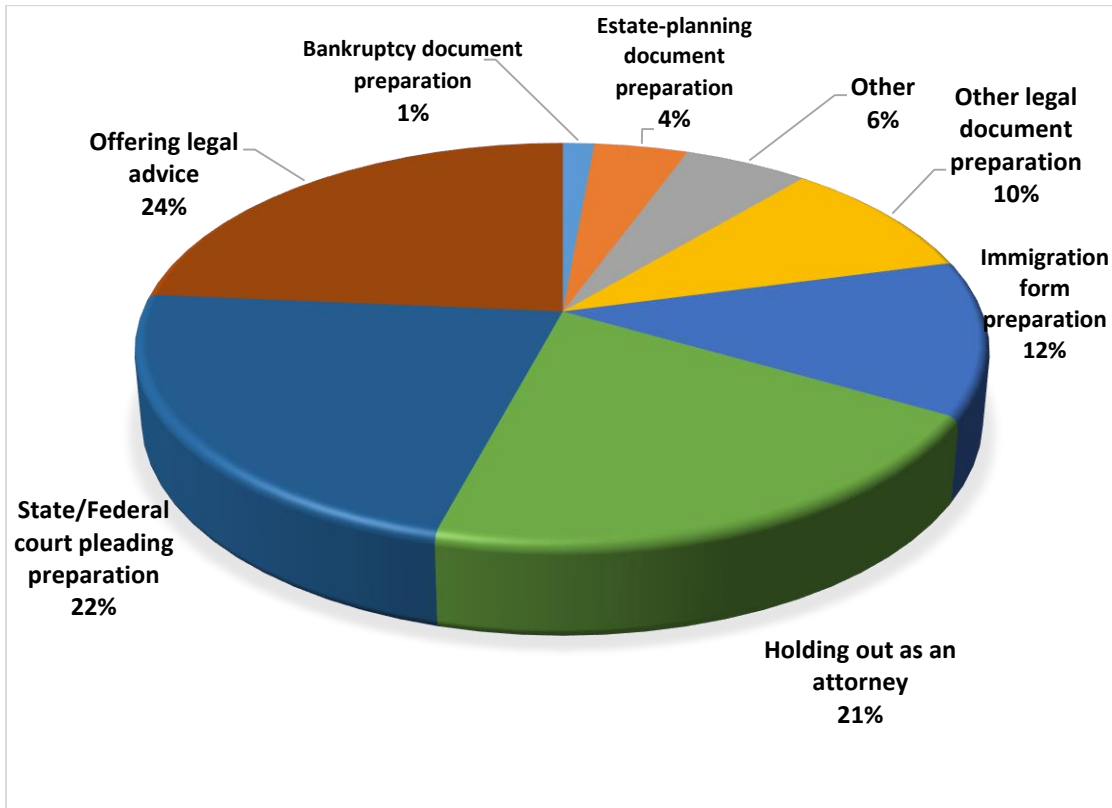
**The number in parentheses are the cases dismissed with educational language.

(Matters filed in the previous year may be carried over to the next calendar year.)

UPL Cases 2014, by Type of Complaining Witness



UPL Cases 2014, by Type of Legal Service



The following information regarding the investigation and prosecution of unauthorized practice of law matters is provided for informational purposes:

INTAKE: The Office of Attorney Regulation Counsel typically receives several general inquiries on unauthorized practice of law matters each week. These calls come from lawyers, judges, clients, or non-lawyers who have questions concerning Colorado's multi-jurisdictional practice rule, C.R.C.P. 205.1, and also from individuals who may be interested in opening, or who have opened, a document-preparation business. Attorney Regulation Counsel uses these telephone inquiries as an opportunity to educate the lawyer, client, or non-lawyer-provider on the issues of what constitutes the unauthorized practice of law and possible harm that can result from the unauthorized practice of law. Attorney Regulation Counsel discusses the impact of C.R.C.P. 204.1 (Colorado's single-client certification rule), C.R.C.P. 205.1 (Colorado's multi-jurisdictional rule), and C.R.C.P. 205.3 and 205.4 (Colorado's *pro hac vice* rules). Attorney Regulation Counsel also discusses the fact that non-lawyers owe no duties of competence, diligence, loyalty, or truthfulness, and there may be fewer remedies as there is no system regulating the quality of such services, no client protection funds, and no errors and omissions insurance. Attorney Regulation Counsel discusses the potential issues involving types and levels of harm. Regulation Counsel encourages a caller to file a request for investigation if they believe the unauthorized practice of law has occurred rather than dissuade the caller from filing an unauthorized practice of law request for investigation.

INVESTIGATION: The Office of Attorney Regulation Counsel uses the same investigation techniques in unauthorized practice of law matters that are used in attorney discipline matters. These techniques include interviewing the complaining witness, any third-party witnesses, and the respondent(s). Attorney Regulation Counsel orders relevant court files and other documents, and frequently uses the power of subpoenas to determine the level and extent of the unauthorized practice. If the unauthorized practice of law has occurred, Regulation Counsel attempts to identify and resolve the unauthorized practice, as well as issues involving disgorgement of fees and restitution with an informal agreement. These investigations create further public awareness of what constitutes the unauthorized practice of law and this office's willingness to address unauthorized practice of law issues.

TRIAL: Once matters are investigated and issues involving serious client harm or harm to the legal system are identified, Attorney Regulation Counsel pursues enforcement of the rules concerning the unauthorized practice of law. Injunctive proceedings are used to ensure that future misconduct does not occur. Federal and state district court (and state county court) judges have taken note of this and submit the names of the problematic non-lawyer respondents. As a result of unauthorized practice of law proceedings, numerous immigration consulting businesses have been shut down throughout Colorado. In addition, other individuals who either posed as lawyers to unwary clients, or who otherwise provided incompetent legal advice were enjoined from such conduct. Several individuals were found in contempt of prior Colorado Supreme Court orders of injunction.

Attorney Regulation Counsel assigns trial counsel and non-attorney investigators to unauthorized practice of law matters.

Appendix M

EDUCATION/OUTREACH

Presentations/Talks

The Office of Attorney Regulation Counsel presented 159 public speeches in 2014. *See* Table 29.

TABLE 29

| Presentations/Talks Delivered | |
|-------------------------------|-----|
| 2014 | 159 |
| 2013 | 169 |
| 2012 | 149 |
| 2011 | 191 |
| 2010 | 144 |
| 2009 | 119 |
| 2008 | 164 |

Ethics School

The Office of Attorney Regulation Counsel created, designed, and staffs an Ethics School. *See* Table 30.

TABLE 30

| Year | Classes Presented | Attendance |
|------|-------------------|------------|
| 2014 | 5 | 132 |
| 2013 | 5 | 91 |
| 2012 | 5 | 110 |
| 2011 | 5 | 161 |
| 2010 | 4 | 123 |
| 2009 | 5 | 143 |
| 2008 | 5 | 165 |

The school is a seven-hour course that focuses on the everyday ethical dilemmas attorneys confront. The course addresses the following issues:

- Establishing the attorney-client relationship;
- Fee agreements;
- Conflicts;
- Trust and business accounts;
- Law office management; and
- Private conduct of attorneys.

The Ethics School is not open to all attorneys. Rather, the attorneys attending are doing so as a condition of a diversion agreement or pursuant to an order from the Presiding Disciplinary Judge or Supreme Court. The attorneys attending Ethics School are provided with a detailed manual that addresses all of the topics covered in the school, along with suggested forms and case law.

The Ethics School manual is available for purchase for \$150. The purchase price includes manual updates for one year. A manual may be purchased by contacting the Office of Attorney Regulation Counsel.

Trust Account School

In 2003, the Office of Attorney Regulation Counsel created a four-hour course that addresses the correct method for maintaining a trust account. The course is designed for both attorneys and legal support staff. The course instructors are attorneys from the Office of Attorney Regulation Counsel. *See Table 31.*

TABLE 31

| Year | Classes Presented | Attendance |
|------|--------------------------|------------|
| 2014 | 7 (2 outside the office) | 92 |
| 2013 | 5 | 76 |
| 2012 | 5 | 49 |
| 2011 | 5 | 68 |
| 2010 | 5 | 63 |
| 2009 | 4 | 47 |
| 2008 | 5 | 56 |

The course is accredited for five general ethics credits and is open to all members of the bar. The cost of the course is minimal so as to encourage widespread attendance.

Professionalism School

At the direction of the Supreme Court and in cooperation with the Colorado Bar Association, the Office of Attorney Regulation Counsel designed a professionalism school for newly admitted Colorado attorneys. The Office of Attorney Regulation Counsel designed the curriculum and teaches the course in such a fashion as to address the most common ethical dilemmas confronted by newly admitted attorneys. Attendance at the course is a condition of admission to the Colorado Bar. On an annual basis, nearly 1,000 admittees attend and participate in the training. Lawyers from the Office of Attorney Regulation Counsel committed hundreds of hours to the planning, administration, and presentation of the professionalism course. This course is separate and distinct from the ethics school and trust accounting school presented by the Office of Attorney Regulation Counsel. In 2014, the office participated in 17 separate presentations of the course.

OARC Update

The office sends a quarterly email newsletter to the state's 38,000-plus attorneys. Copies of four editions are seen on the following pages.

OARC Update

A quarterly newsletter of the
Office of Attorney Regulation Council



Regulation Counsel
James C. Coyle

Important Dates

Jan. 31 [CLE affidavit deadline](#)

Feb. 1 [CLE late fees begin](#)

Feb. 25-26 [February 2014 Bar Exam](#)

Feb. 28 [Attorney registration deadline](#)

March 1 [\\$50 attorney registration late fee assessed](#)

April 1 [\\$100 attorney registration late fee assessed](#)

CLEs

Jan. 30-31 [Preventing Legal Malpractice 2014](#)

Jan. 31 [Attorney Ethics and Digital Communications](#)

Feb. 11 [Ethical Considerations Related to Modest Means Representation & Unbundled Legal Services](#)

Feb. 27 [Practicing with Professionalism video replay](#)

March 26 [Practicing with Professionalism](#)

Winter 2014



['Nothing About It Didn't Excite Me to My Bones'](#)

New Colorado Supreme Court Chief Justice Nancy Rice wants to educate the public about the legal system she fell in love with as a girl.

COUNSEL FOR THE CRAFT

[11 Tips to Protect Client Info in the Digital Age](#)

Implementing these measures can help address your ethical obligations in the cyberspace era.

[Know When to Hold 'Em, Know When to Fold 'Em](#)

Clearly communicate when representation begins and ends to avoid the perils of the attorney-client relationship.

[Bouncing Back From Tough Times](#)

Lawyers who develop resiliency are better able to bounce back from stressful, and even traumatic, situations.

LAW SCHOOL CORNER

[Q&A with the Director of Examinations](#)

Susan Gleeson discusses the test's evolution, stuffed animal mascots and other things she's seen in her three decades administering the Colorado Bar Exam.

[Moral Requirements Clarified for Bar Applicants](#)

The Character & Fitness Admission Guidelines illuminate how applications are assessed for moral and ethical qualifications.

GENERAL

[Help Stop the Unauthorized Practice of Law](#)

Lawyers reporting unlicensed practitioners can reduce harm done to the public and the courts.

[Registration and CLE Deadlines are Approaching](#)

The Office of Attorney Registration also announces changes to CLE accreditation forms.

[Practice Monitor Program Offered](#)

The CLE course teaches attorneys how to help fellow lawyers who have violated the rules of professional conduct.

OARC Update

A quarterly newsletter of the
Office of Attorney Regulation Counsel



Regulation Counsel
James C. Coyle



Important Dates

April 23 [Mandatory Professionalism Course \(video\)](#)

April 30 [Last day to pay and register for 2014 to avoid summary suspension proceedings](#)

May 1 [Filing deadline for July 2014 bar exam](#)

May 1 Summary suspensions issues for attorneys not registered for 2014

May 9 [February 2014 exam results posted](#)

May 13 [Mandatory Practicing with Professionalism course \(live\)](#)

May 14 [Mandatory Practicing with Professionalism course \(live\)](#)

May 20 [Mandatory Practicing with Professionalism course \(live\)](#)

May 23 [Mandatory Practicing with Professionalism course \(live\)](#)

May 27 [Admissions ceremony](#)

May 31 [CLE make-up plan submission deadline](#)

May 31 [Late filing deadline for July 2014 bar exam](#)

June 5 [Hearing on proposed changes to Rule 1.15 about trust accounts](#)

June 15 [Last day to report CLE courses taken to complete a make-up plan](#)

Spring 2014

NEWS

Lawyers Get Green Light on Assisting Pot Clients

The Colorado Supreme Court has adopted [a new comment to Rule 1.2](#) making clear that attorneys can counsel clients on issues related to marijuana.

Confidentiality of Judicial Disciplinary Proceedings Explained

[The recent public censure and resignation of a county judge put the Commission on Judicial Discipline in the spotlight.](#)

Trust Account Rule Change Recommended

Proposed revisions are intended to clarify Rule 1.15. The Supreme Court will hold a hearing on the proposal in June.

COUNSEL FOR THE CRAFT

Handling Clients with Diminished Capacity

As the population grows older, it's not just elderly law practitioners who run into this issue. [Here's what you need to know about the rules.](#)

To Share or Not to Share?

Confidentiality is a cornerstone of the legal system. Keeping personal secrets, however, big or small, can threaten your mental and physical health. [Your Colorado Lawyer Assistance Program can help.](#)

LAW SCHOOL CORNER

A Rite of Passage

[Five Colorado Supreme Court Justices share their experiences taking the bar exam.](#)

Online Process Streamlines Applications

[A new attorney admissions system](#) expedites the character and fitness review process.

TO KNOW

OARC's Redesigned Annual Report Released

[The new 2013 report](#) is intended to give a more global assessment of how the office regulated the practice of law in last year.

'The Weight of the World Was Upon Them'

[The Colorado Constitution's physically impressive presentation in the Supreme Court Law Library](#) mirrors the magnitude of the process required to craft it.

Client Protection Fund Approves Nearly \$14,000 in Claims Last Quarter

OARC Update

A quarterly newsletter of the
Office of Attorney Regulation Counsel



PHOTOS BY BRYAN LOPEZ

Regulation Counsel
James C. Coyle



Important Dates

July 29-30 Bar
Examination

Aug. 9 MPRE

Sept. 1 Admissions rule-
change goes into effect

Oct. 9 [Bar exam results
posted](#)

CLEs/Office Presentations

July 24 [Ethics for Big
Firm Lawyers & Their
Clients](#) (Kati Rothgery)

July 31 [Practicing with
Professionalism](#)

Aug. 1-3 [Annual Family
Law Institute](#) (Amy
Devan)

Aug. 14-16 [Hanging
Your Shingle](#) (Charles
Mortimer, Kati Rothgery)

Aug. 21 Law Bank
presentation about solo
practitioners (James
Coyle)

Aug. 22 [Working with
Clients with Diminished
Capacity: An Ethical
Perspective at the 6th
Annual Elder Law Retreat](#)
(Kati Rothgery)

Aug. 29 [Practicing with
Professionalism](#) (video
replay)

Sept. 3 [Practicing with
Professionalism](#)

Sept. 10-11 [Wyoming
State Bar & Judicial
Conference](#) (James Coyle,
James Sudler)

Sept. 17 Commercial
Loans CLE (Charles
Mortimer)

Sept. 19 [Practice
Monitor Class](#)

Sept. 20 Judicial
Support and Ethical
Considerations for
Limited Representation
and Modest Means
Representation at the DU
Law School Public

Summer 2014

NEWS

[Supreme Court Adopts New Admissions Rules](#)

The changes streamline the process, consolidate rules and add new categories of admission.

[Revisions Aimed at Interest Rates, Accessibility](#)

In practice, changes to the trust account rules won't affect attorneys' compliance.

COUNSEL FOR THE CRAFT

[Whose Rules to Follow](#)

Lawyer websites may be subject to numerous rules -- including those in other states.

[How to Procrastinate Effectively](#)

Lawyers benefit from examining how they manage time.

LAW SCHOOL CORNER

['Going Beyond' and Grading Elvis](#)

Three lawyers share their experiences and advice as bar exam graders.

TO KNOW

[Inside the Judicial Performance Evaluations](#)

What goes into judging the judges?

[Please Remove Your Belt](#)

The reasons behind courthouse security and how Colorado addresses risk.

[Reminder!](#)

Mid-year is a good time to track your CLE progress.

[Find past issues of the OARC Update here.](#)


If you have a comment or idea for the *OARC Update*, contact James Carlson, Information Resources Coordinator, at j.carlson@csc.state.co.us or (303) 928-7914.

OARC Update

A quarterly newsletter of the
Office of Attorney Regulation Counsel



PHOTOS BY BRYAN LOPEZ

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Regulation Counsel
James C. Coyle



Important Dates

Nov. 3 Swearing-in ceremony

Dec. 1 Deadline for February bar exam registration

Dec. 1 2015 Registration period begins

Dec. 31 Late deadline for February bar exam

Dec. 31 [2014 CLE compliance period ends](#)

CLEs/Office Presentations

Nov. 4 [The Ethics Revue at Lannie's Clocktower Cabaret](#)

Nov. 5 [The Ethics Revue at Lannie's Clocktower Cabaret](#)

Nov. 7 "The Current State of Affairs" at [Colorado Statewide ADR Conference](#) (James Coyle)

Nov. 12 UPL presentation to Colorado Freelance Paralegal Network (James Wilder)

Nov. 13 DBA Young Lawyers Orientation (James Coyle)

Nov. 18 Multi-jurisdiction Practices at Boulder Bar Association (James Coyle)

Nov. 21 [2014 Ethics 7.0](#) (James Sudler)

Nov. 25 [Ethical Issues for Attorneys Serving on Nonprofit Boards](#)

Dec. 4 [Colorado Legal Ethics - 1.1 to 8.4](#)

Dec. 5 [Trust Account School](#)

Dec. 5 Ethics for Government Lawyers (James Coyle and Brooke Meyer)

Dec. 11 [Understanding Your](#)

Fall 2014

What to Know About CLE Fee Increases

The changes effective last month affect costs for program accreditation and attorney compliance.

OARC Launches Facebook Page

['Like' our Facebook page](#) to receive deadline reminders and links to stories on how to improve your practice.

10 Reasons to Care About New Admissions Rules

They may affect you even if you're not an applicant.

Are You Handling Client Funds Correctly?

Trust Account School can help any attorney maintain their money the right way.

Attention Inactive Attorneys Over 65

Yes, you need to update your registration this year. No, you still don't have to pay any fee.

BOLO Alert

Be on the lookout for a survey arriving in your inbox soon that will help us better understand attorney wellness.

Congratulations!

OARC attorneys are moving on to the bench and the state's ethics commission.

Getting Professionalism Help Just Got Easier

The Peer Professionalism Assistance group seeks to offer its services to more of the state's attorneys.

Love in the Fall

There are many ways to improve your experience with family and friends despite a demanding professional life.

What Does Professionalism Mean in the 21st Century?

October's Legal Professionalism Month offers a chance to discuss an evolving legal community.

To find past issues of the *OARC Update*, go to [the archives here](#).

