

State of Michigan

Judicial Tenure Commission

Annual Report 2015



Judicial Tenure Commission
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jtc.courts.mi.gov

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HON. DAVID H. SAWYER
CHAIRPERSON
HON. PABLO CORTES
VICE CHAIRPERSON
NANCY J. DIEHL
SECRETARY
HON. MONTE J. BURMEISTER
DAVID T. FISCHER
HON. NANJI J. GRANT
THOMAS J. RYAN, ESQ.
MELISSA B. SPICKLER
HON. LAWRENCE S. TALON



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State of Michigan
Judicial Tenure Commission

February 9, 2015

Honorable Justices of the Michigan Supreme Court
Honorable Rick Snyder, Governor
Honorable Members of the Michigan Legislature
Honorable Judges

I am pleased to present the Annual Report of the Michigan Judicial Tenure Commission for the year 2015. This Annual Report is presented to inform the public and all branches of state government about the Commission's duties, operations, and actions.

The Commission remains committed to fulfilling its responsibilities to the People of the State of Michigan. It also takes this opportunity to thank its devoted and professional staff members for their work and assistance to the Commission this past year. It is hoped that through the vigilant and dedicated work of the Commission, the public's confidence in the integrity, independence, and fairness of the judiciary will be preserved.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. H. Sawyer".

David H. Sawyer
Chairperson
For the Commission

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COMPOSITION OF THE COMMISSION – 2015

Hon. David H. Sawyer, Chairperson

Judge, Michigan Court of Appeals
350 Ottawa Ave. NW
Grand Rapids, MI 49503
(616) 456-1811
Term Exp. 12/31/15
Elected by Court of Appeals Judges

Hon. Pablo Cortes, Vice-Chairperson

62A District Court
2650 DeHoop Ave. SW
Grand Rapids, MI 49509
(616) 257-9814
Term Exp. 12/31/16
Elected by Judges of Limited Jurisdiction

Nancy J. Diehl, Esq., Secretary

3034 W. Grand Blvd., Suite 8-450
Detroit, MI 48202
(313) 875-5110
Term Exp. 12/31/17
Elected by State Bar Membership

Hon. Monte J. Burmeister

Judge, Probate/District Court
46th Circuit Trial Court
(989) 344-3260 Ofc
Term Exp. 12/31/17
Elected by Probate Judges

Hon. Nanci J. Grant

Judge, 6th Circuit Court
1200 N. Telegraph Road, Dept. 404
Pontiac, MI 48341
(248) 858-0358
Term Exp. 12/31/15
Elected by Circuit Court Judges

David T. Fischer

3034 W. Grand Blvd., Suite 8-450
Detroit, MI 48202
(313) 875-5110
Term Exp. 12/31/17
Appointed by Governor

Hon. Michael M. Hathaway

3rd Circuit Court
1441 Saint Antoine St., Ste. 501
Detroit, MI 48226
(313) 224-2417
Term Exp. 12/31/15
Elected by State Bar Membership

Melissa B. Spickler

3034 W. Grand Blvd., Suite 8-450
Detroit, MI 48202
(313) 875-5110
Term Exp. 12/31/16
Appointed by Governor

Thomas J. Ryan, Esq.

2055 Orchard Lake Road
Sylvan Lake, MI 48320
(248) 334-9938
Term Exp. 12/31/16
Elected by State Bar Membership

BIOGRAPHIES

Hon. Monte J. Burmeister is the Probate Judge for Crawford County, Michigan. He was elected to the Probate Bench in 2006 and was re-elected in 2012. Judge Burmeister was in private practice prior to taking the bench and operated his own law firm from 1999 through 2006. He graduated with a Bachelor of Arts from James Madison College at Michigan State University, with honors, in 1990, and received his Juris Doctor from Wayne State University Law School in 1993. Judge Burmeister sits on the Executive Board for the Michigan Probate Judges Association. He began his tenure on the Commission in 2013.

Hon. Pablo Cortes is a District Court Judge in the city of Wyoming, Kent County. He was appointed to his seat in 2005 and subsequently elected in 2006 and 2008. From 1995 until taking the bench, Judge Cortes served as an Assistant Prosecuting Attorney for Kent County. Judge Cortes graduated from the University of Michigan in Ann Arbor with honors in 1989 and from Wayne State University Law School in Detroit in 1995. He was elected to the Judicial Tenure Commission in 2010. Aside from his service on the commission and various community groups, Judge Cortes serves on the board of the Michigan District Court Judges Association and its Legislative Committee. He is also an Adjunct Professor at both the Thomas M. Cooley Law School in Grand Rapids and the Grand Rapids Community College Police Academy. Judge Cortes served as the Commission's Secretary in 2013 and 2014 and currently serves as the Commission's Vice Chairperson in 2015.

Nancy J. Diehl, Esq. retired from the Wayne County Prosecutor's Office in 2009. Her prosecution career spanned 28 years and her last position was as Chief of the Trial Division, overseeing general trials, child and family abuse, homicide, auto theft, major drugs, and victim services. Ms. Diehl, past president of the State Bar of Michigan, sits on the Michigan Indigent Defense Commission and the Wayne County Kids-TALK Children's Advocacy Advisory Board. Fellow members of the State Bar of Michigan elected her to the Judicial Tenure Commission for a term beginning January 1, 2006. She is currently serving her fourth term, which began on January 1, 2015. Ms. Diehl has a B.A. from Western Michigan University and a J.D. from Wayne State University. Ms. Diehl serves as the Commission's Secretary.

David T. Fischer is Chairman and Chief Executive Officer of The Suburban Collection, the 13th largest automotive group in the U.S. and one of the largest privately-held automotive groups in Michigan. It encompasses 29 brands across 45 locations throughout Michigan, southeast Florida, and recently southern California. The Suburban Collection also operates state-of-the-art collision centers throughout Michigan. Mr. Fischer has been honored with the Time Magazine Quality Dealer Award, the General Motors Dealer of the Year Award, and Ford Motor Company's "Salute to Dealers" award for automotive excellence and community service.

Mr. Fischer serves as Chairman Emeritus of the North American International Auto Show. He also serves on the Board of Trustees for the College for Creative Studies and has chaired the Campaign Committee supporting the renovation of the historic Argonaut building as part of the CCS campus. Mr. Fischer received an Honorary Doctorate in Fine Art from CCS as well.

David Fischer was recently elected Emeritus Director of the Detroit Institute of Arts, and also supports the Detroit Symphony and the Museum of Contemporary Art Detroit. Mr. Fischer and his wife Jennifer

actively support more than 20 charitable organizations including the American Cancer Society, the Juvenile Diabetes Research Foundation, Make-A-Wish and Forgotten Harvest. The Suburban Collection, under David Fischer's leadership, has been a flagship sponsor of "Making Strides against Breast Cancer" and for the past ten years has been a sponsor of the "Teacher of the Year" program. In 2010 The Suburban Collection joined Ford in the launch of Ford Mobile Food Pantries, an initiative to bring food to those in need throughout metro Detroit. The initiative also serves as a pilot for a national dealer program to feed the hungry.

Hon. Nanci J. Grant is an Oakland County Circuit Court Judge. She was elected by the state's Circuit Judges to the Judicial Tenure Commission for the term commencing January 1, 2007. Judge Grant received her Bachelor of Arts Degree from The University of Michigan, where she graduated with honors, and her Juris Doctor from Wayne State University. She worked in private practice prior to being elected to the bench in 1996. Judge Grant served as President of the Michigan Judges Association. Judge Grant is the Chief Judge of the Sixth Circuit Court of Michigan and served as the Commission's Secretary, and served as the Commission's Chair in 2013 and 2014.

Hon. Michael M. Hathaway a member of the State Bar of Michigan for over 40 years, is currently a Wayne County Circuit judge assigned to the court's Criminal Division. He is a graduate of Wayne State University (1967) and the Detroit College of Law (1971). During law school Judge Hathaway taught in Detroit public schools and upon admission to the bar was hired by Vandever Garzia PC. He remained there for 30 years, and eventually served as a managing partner before his appointment to the bench in 2001. While in practice he handled a variety of tort litigation, representing both plaintiffs and defendants. Judge Hathaway currently serves on the Third Circuit's Executive Committee, the Assigned Counsel Qualifications Committee and the court's Docket Review Committee. He was elected to the Judicial Tenure Commission in 2012.

Thomas J. Ryan, Esq. is a member of the State Bar of Michigan, Oakland County Bar Association, and the Oakland County Ancient Order of Hibernians. Mr. Ryan is a past president of the State Bar of Michigan serving as its 66th President from September 2000, to September 2001. Mr. Ryan served on the Oakland County Bar Association's Board of Directors and was its President from 1993 to 1994. He received his Undergraduate Degree from the University of Notre Dame and his law degree from the University of Detroit Mercy. Mr. Ryan has been in the private practice of law since January, 1977, and is the attorney for the Village of Beverly Hills, City of Keego Harbor, City of the Village of Clarkston, and the City of Orchard Lake Village from May 2001 to April 2011, as well as the prosecuting attorney for the Township of Bloomfield, from July, 1978 to October, 2006. Mr. Ryan served as the Commission's Vice Chairperson, and Chairperson.

Hon. David H. Sawyer was elected to the Court of Appeals in 1986. He was elected to the Judicial Tenure Commission by his fellow Court of Appeals judges for a term that began on January 1, 2010. Judge Sawyer currently is Chief Judge Pro Tem of the Michigan Court of Appeals. Before being elected to the bench, he was the Kent County Prosecuting Attorney from 1977 to 1987. Judge Sawyer is a Past President of the Michigan Prosecuting Attorneys Association. He received his Bachelor of Science degree from the University of Arizona in 1970 and received his law degree from Valparaiso University School of Law in 1973. Judge Sawyer served as the Commission's Vice-Chair in 2013 and 2014 and currently serves as the Commission's Chairperson.

Melissa B. Spickler is a veteran of the financial services industry, with more than three decades of accomplishments as a Merrill Lynch Financial Advisor. She founded The Spickler Group in 1980 and has since turned it into a 10 person team serving both individual as well as institutional clients. Missy is a Managing Director Wealth Management, is on the Executive Committee of Merrill's National Women's Exchange, serves as President of the Detroit Area Chapter of the Women's Exchange, and has recently served 3 years on the National Advisory Council to Management. She has a Bachelor's degree in Criminal Law from Michigan State University and also holds a Chartered Retirement Planning Counselor SM designation.

Most recently, Missy was recognized in Barron's Top 1200 Advisors by State. In 2012 and 2013, she was named to Barron's prestigious Top 100 Women Financial Advisors Nationwide. In 2012 and 2013, she was recognized in Registered Rep Magazine as one of the Top 50 Women Advisors Nationwide. For the past 3 years, Missy has been voted by Hour Magazine as a 5-Star Wealth Manager. Her commitment to educating consumers on the importance of planning for the impact of health care costs in retirement prompted Barron's Magazine to feature her as the first financial advisor to be on the cover, and in the article "How to Protect Your Health & Wealth."

2015 JTC Commissioners



FRONT ROW (L-R): Nancy J. Diehl, Judge David H. Sawyer, Judge Pablo Cortes

BACK ROW (L-R): Judge Monte J. Burmeister, Thomas J. Ryan, Judge Nanci J. Grant, David T. Fischer, Melissa B. Spickler, Paul J. Fischer (Executive Director), Judge Michael M. Hathaway

I. COMMISSION JURISDICTION AND LEGAL AUTHORITY

A. The Authority of the Judicial Tenure Commission

The Judicial Tenure Commission is an independent state commission that came into being in 1968 by amendment to the Michigan Constitution. The Commission investigates allegations of judicial misconduct and disability, conducts hearings as appropriate, and recommends sanctions to the Michigan Supreme Court. The Commission's objective is to enforce high standards of ethical conduct for judges. On the one hand, judges must be free to act independently on the merits of the case and in good faith. However, they must also be held accountable by an independent disciplinary system should they commit misconduct. The judicial discipline system must not only fulfill its primary purpose – to protect the public and preserve the institutional integrity of the judiciary – but also serve to shield judges from attack by unsubstantiated complaints.

The Commission has jurisdiction over all active state judges. The Commission also has jurisdiction over former judges if a request for investigation is filed while that judge was still in office. If the matter complained about relates to the former judge's tenure as a judge, the request for investigation may even be filed after the person is no longer a judge.

The Commission does not have jurisdiction over federal judges or administrative law hearing officers such as workers compensation magistrates, department of corrections hearing officials, and the like. This section describes the Commission's handling and disposition of complaints involving judges.

B. What the Commission Cannot Do

The Commission is not an appellate court. The Commission cannot change a judicial officer's decision. If a court makes an incorrect decision or misapplies the law, that ruling can be changed only through the appellate process. The Commission also cannot get a judge taken off a case or have a matter transferred to another judge. The Commission cannot provide legal assistance to individuals or intervene in litigation on behalf of a party.

C. Judicial Misconduct

The Commission's authority is limited to investigating alleged judicial misconduct and, if warranted, recommending the imposition of discipline by the Michigan Supreme Court. Judicial misconduct and disability usually involves conduct in conflict with the standards set forth in the Code of Judicial Conduct. Examples of judicial misconduct include demeanor problems (such as yelling, rudeness, or profanity), improper communication with only one of the parties in a case, failure to disqualify in cases in which the judge has or appears to have a financial or personal interest in the outcome, delay in performing judicial duties, and public comment about the pending case. Judicial misconduct also may involve improper off-the-bench conduct.

D. Legal Authority

1. Michigan Constitution

The Judicial Tenure Commission was established by an amendment to the Michigan Constitution by the people of Michigan in 1968. The Commission's authority is set forth in article 6, section 30 of the Michigan Constitution. The provisions governing the Commission may be found on the Commission's web site (jtc.courts.mi.gov).

2. Michigan Court Rules

Article 6, section 30 of the Constitution authorizes the Michigan Supreme Court to make rules to implement the constitutional directive. Chapter 9.200 of the Michigan Court Rules sets forth the applicable procedures. A copy of those rules may be found on the Commission's website (jtc.courts.mi.gov).

3. Code of Judicial Conduct

The Michigan Supreme Court has adopted the Code of Judicial Conduct, most recently in 1993. 443 Mich ii (1993). The Court from time-to-time effects changes in the Code. A copy of the most recent Code may be found on the Commission's website (jtc.courts.mi.gov).

E. Recent and Anticipated Changes at the Commission

The composition of the Commission in 2016 will change slightly. Judge Nanci Grant and Judge David Sawyer were re-elected by their respective judicial associations for another three-year term each, beginning January 1, 2016. Judge Michael Hathaway did not seek re-election, and his seat will be filled by Wayne County Circuit Judge Lawrence Talon, beginning January 1, 2016.

II. OVERVIEW OF THE COMPLAINT PROCESS

A. HOW MATTERS ARE BROUGHT BEFORE THE COMMISSION

Anyone may file a request for investigation (or "grievance") against a judge on the Commission's complaint form, a sample of which is on the Commission's website (jtc.courts.mi.gov). The court rules require that the person filing the grievance ("the grievant") have his or her signature verified (*i.e.*, notarized) to establish that he or she has sworn to the truthfulness of the statements made in the grievance. The Commission may institute an investigation on its own, or at the request of the Chief Justice of the Michigan Supreme Court or the State Court Administrator. The Commission may also consider complaints made anonymously, and it may open a file into matters it learns of in other ways, such as news articles or information received in the course of a Commission investigation.

B. COMMISSION REVIEW OF REQUESTS FOR INVESTIGATION

Upon receipt, each properly executed grievance about a Michigan judge is carefully reviewed by the staff, along with any supporting documents or other evidence. The staff may review the court file if that would be helpful. The staff also requests any additional information from the grievant needed to evaluate the grievance. The staff may not pursue any further investigation without authorization by the Commission.

Based on an assessment of the initial information, the staff prepares a report for the Commission recommending a course of action. Each grievance is voted upon by the Commission. The Commission determines whether the complaint is unfounded and should not be pursued or whether sufficient facts exist to warrant further investigation.

1. Investigation at the Commission's Direction

When the Commission determines that a complaint warrants investigation, the Commission directs the staff to investigate the matter and report back. The Commission will give the staff specific instructions on how to conduct each investigation.

2. Disposition of Cases Without Formal Proceedings

Commission investigations may include contacting witnesses, reviewing court records and other documents, observing courtroom proceedings, and conducting such other investigation as the issues may warrant. If the investigation reveals facts that warrant dismissal of the grievance, it may be closed without the need to contact the judge before doing so. Unless the Commission determines otherwise, the judge is given a copy of the grievance upon closing the case.

At times the judge may be asked to comment on the allegations, in which case the judge is given a copy of the grievance as part of the investigation. The Commission may limit the inquiry to the judge to a particular aspect of the grievance. The judge's response is then considered along with all other information. This initial comment from the judge is generally viewed as an investigatory aid (pursuant to MCR 9.207[C][2], rather than as a necessary precursor to a formal complaint pursuant to MCR 9.207[C][1]).

C. ACTION THE COMMISSION CAN TAKE

1. Confidential Dispositions

After an investigation, the Commission has several options. If the allegations are found to be untrue or unprovable, the Commission may close the case without action against the judge. If after an investigation, the Commission determines that there was no judicial misconduct, but that certain actions of the judge should preferably not be repeated, the

Action the Commission Can Take

- Dismissal
- Dismissal with Explanation
- Dismissal with Caution
- Dismissal with Admonition
- Recommend Private/Public Censure, Suspension or Removal to Supreme Court

Commission may dismiss the matter with a letter of explanation. If after an investigation and opportunity for comment by the judge, the Commission determines that improper or questionable conduct did occur, but it was relatively minor, the Commission may dismiss the matter with a cautionary letter to the judge. In cautionary letters, the Commission will advise caution or express disapproval of the judge's conduct.

When more serious misconduct is found, the Commission may dismiss the matter with an admonishment. Private admonishments from the Commission are designed in part to bring problems to a judge's attention at an early stage in the hope that the conduct will not be repeated or escalate. A private admonishment consists of a notice to the judge containing a description of the improper conduct and the conclusions reached by the Commission. A judge has the right to challenge an admonishment in the Supreme Court, which then issues a public decision approving or rejecting the Commission's action. Letters of explanation, caution, and admonishment are not issued until the respondent judge is offered the opportunity to explain what happened.

Letters of explanation, caution, and admonishment are confidential, and they are not "discipline." Due to the rules of confidentiality, the Commission and its staff ordinarily cannot advise anyone, even the person who lodged the complaint, of the nature of the action taken. Summaries of conduct that resulted in such letters issued in 2015 are contained in Section IV.

2. Public Dispositions

a. The Formal Complaint

When formal proceedings are instituted, the Commission issues a formal complaint, which constitutes a formal statement of the charges. The judge's answer to the notice of charges is filed with the Commission and served within 14 days after service of the notice. The formal complaint, the judge's answer, and all subsequent pleadings are public documents, available for inspection at the Commission's office. To the extent practicable, they are also placed on the Commission's web site (jtc.courts.mi.gov).

The rules provide for some discovery between the parties after formal proceedings are instituted. A judge is entitled to inspect and copy all documentary evidence in the Commission's possession that is to be introduced at the hearing on the formal complaint. The Commission must also give the judge the name and address of any person to be called as a witness.

The Commission may petition the Supreme Court for an interim order suspending a judge pending final adjudication of a formal complaint when necessary for the proper administration of justice. MCR 9.219.

b. Hearing

After the judge has filed an answer to the charges, the Commission sets the matter for a hearing. As an alternative to hearing the case itself, the Commission may request the Supreme Court to appoint a master to hear and take evidence in the matter and to report to the Commission. Masters are active judges or judges retired from courts of record.

The judge may be represented by counsel at the hearing. The evidence in support of the charges is presented by an examiner appointed by the Commission. The Michigan Rules of Evidence apply to the hearings, which are conducted like civil trials. MCR 9.211(A).

c. Standard of Proof

The standard of proof in Commission proceedings is by a preponderance of the evidence. *In re Ferrara*, 458 Mich 350 (1998).

d. Commission Consideration Following Hearing by Master

Following the hearing on the formal complaint, the master files a report with the Commission. The report includes a statement of the proceedings and the master's findings of fact and conclusions of law with respect to the issues presented by the formal complaint and the judge's answer.

Upon receipt of the master's report, the judge and the examiner are given the opportunity to file objections to the report and to brief the issues in the case to the Commission. Prior to a decision by the Commission, the parties are given the opportunity to present oral arguments before the Commission.

e. Disposition after Hearing by Commission

The Commission may dismiss the matter if it determines that there has been insufficient evidence of misconduct after conducting the evidentiary hearing itself or after reviewing the master's findings. However, if the Commission determines that misconduct has been established by a preponderance of the evidence, it may recommend that the Michigan Supreme Court impose discipline against the judge. The Commission itself has no authority to discipline a judge; the Michigan Constitution reserves that role for the Supreme Court. The Commission may recommend that the Court publicly censure a judge, impose a term of suspension, or retire or remove the judge from office. The Commission issues a Decision and Recommendation, which triggers the next series of steps.

f. The Supreme Court Hearing

Within 21 days after issuing its Decision and Recommendation, the Commission files the original record in the Supreme Court and serves a copy on the judge. Within 28 days after that, the judge may file a petition in the Supreme Court to modify or reject the Commission's Decision and Recommendation. The examiner has 21 days to file a responsive brief. Even if the judge does not file a petition, the Supreme Court reviews the Commission's Decision and Recommendation.

The Court clerk places the matter on the Court calendar. The judge and the examiner have an opportunity to present oral arguments to the Court, which reviews the record on a *de novo* basis. *In re Ferrara*, 458 Mich 350 (1998). After reviewing the record, the Court issues an opinion and judgment directing censure, removal, retirement, suspension, or other disciplinary action, or rejecting or modifying the Commission's Decision and Recommendation. The court rules allow a judge to file a motion for rehearing in the Supreme Court unless the Court directs otherwise in its opinion.

D. CONFIDENTIALITY OF COMMISSION PROCEEDINGS

The Michigan Constitution authorizes the Supreme Court to provide for the confidentiality of complaints to and investigations by the Commission, Michigan Constitution; article 6, section 30. The court rules provide that complaints and investigations are confidential, subject to certain exceptions, unless and until a formal complaint is issued. MCR 9.221.

The court rules permit the Commission to make public statements during the investigating stage if, on its sole determination by majority vote, it is in the public interest to do so. MCR 9.221.

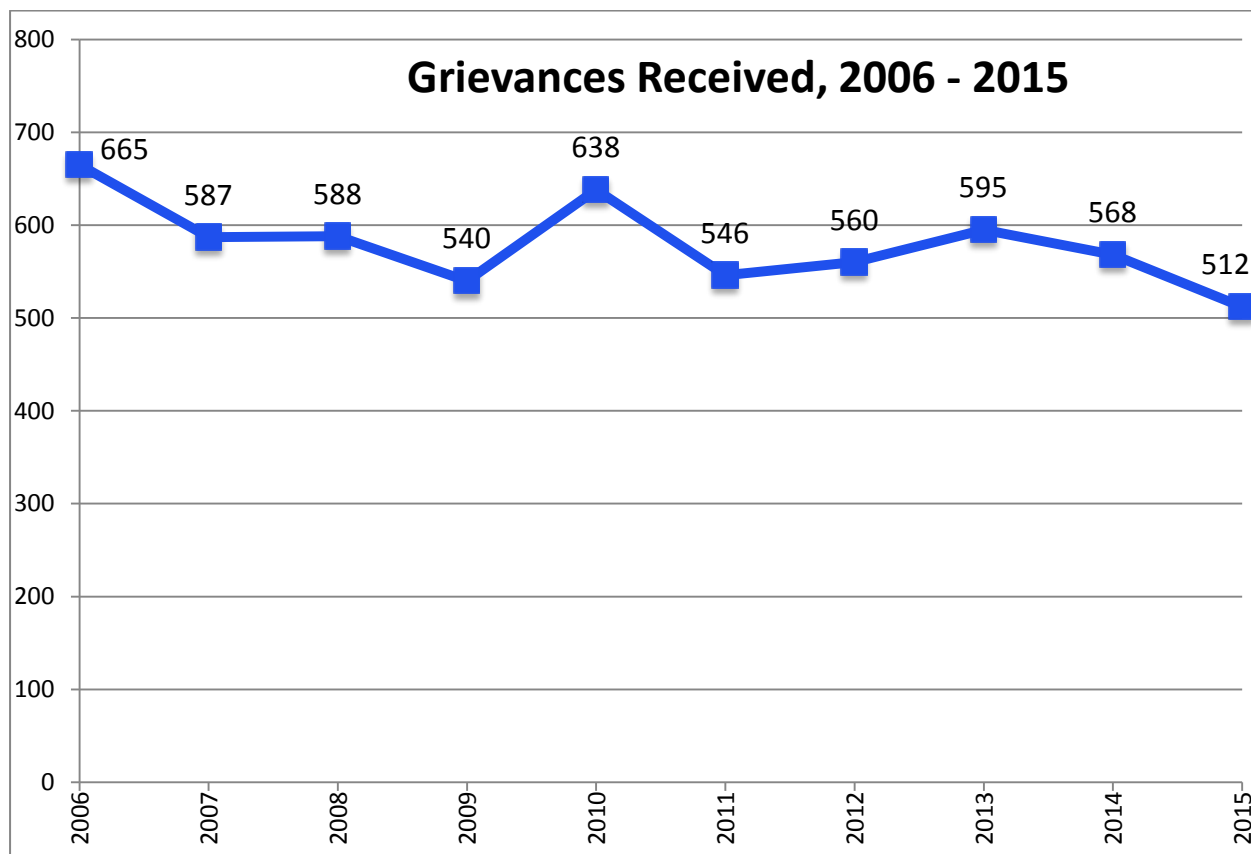
Nevertheless, the Commission’s statement, if any, is limited to the fact that (1) there is an investigation pending or (2) the investigation is complete and there appears to be insufficient evidence for the Commission to file a complaint. The court rules provide that when formal proceedings are instituted, the formal complaint, answer, and all subsequent pleadings and proceedings are open to the public. MCR 9.221(B).

III. 2015 STATISTICS

A. COMPLAINTS RECEIVED AND INVESTIGATED

In 2015, the Commission received 754 requests for "Requests for Investigation" forms. There were 512 Requests for Investigation filed in 2015.

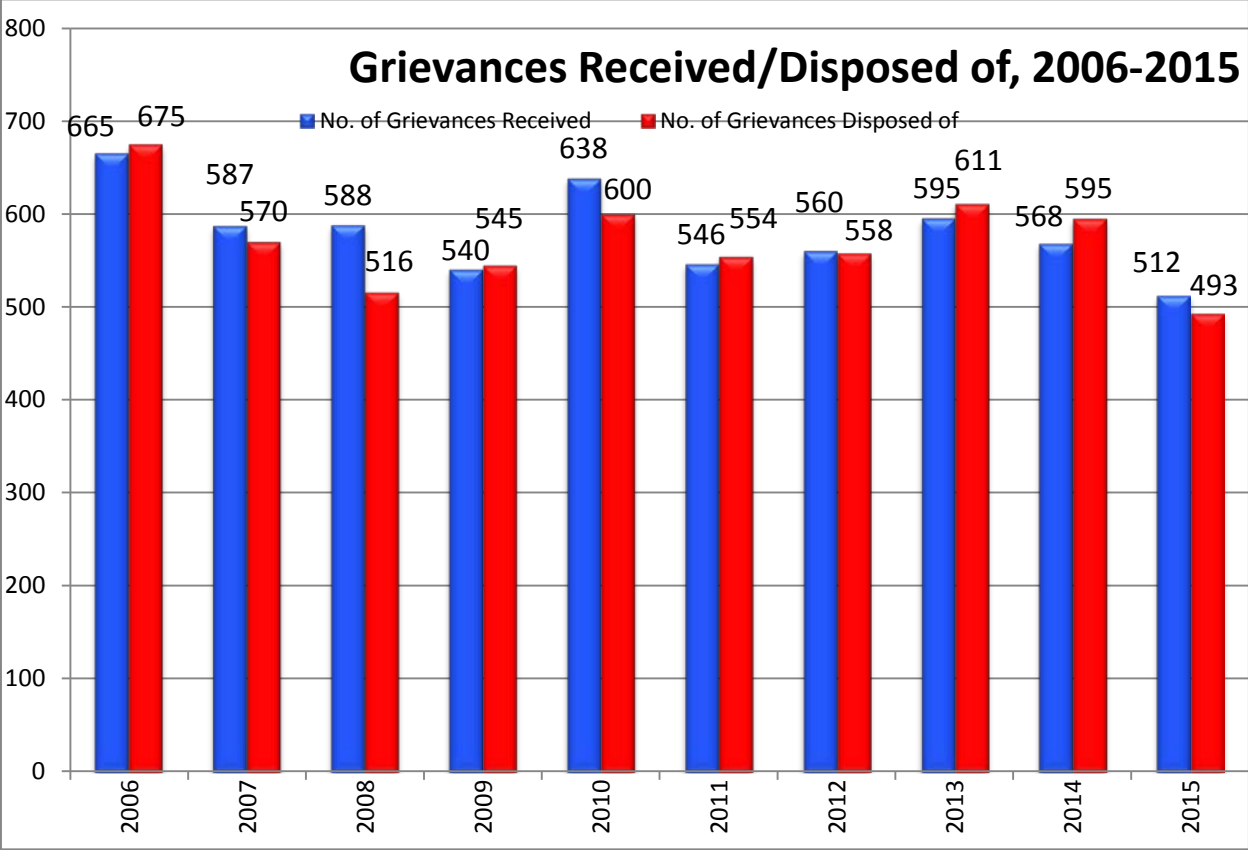
| 2015 CASELOAD | |
|-----------------------------|-----|
| Cases Pending on 1/1/2015 | 58 |
| New Grievances Considered | 512 |
| Cases Concluded in 2015 | 493 |
| Cases Pending on 12/31/2015 | 81 |



The grievances set forth a wide array of allegations. A substantial percentage alleged legal error not involving misconduct or expressed dissatisfaction with a judge’s discretionary handling of judicial duties.

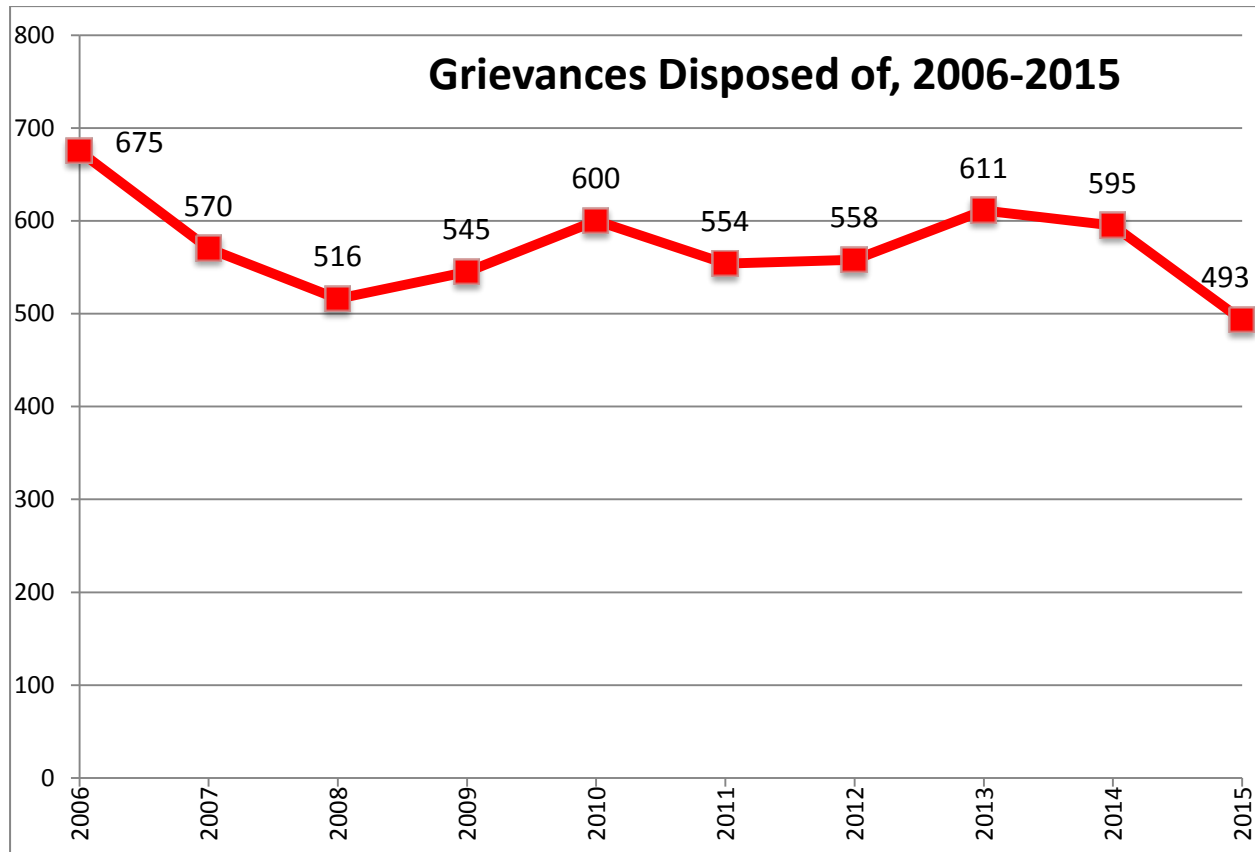
The Commission also received grievances concerning individuals and matters that did not come under the Commission’s jurisdiction: federal judges, former judges, workers’ compensation judges, other government officials and miscellaneous individuals. Commission staff responded to each of these complaints and, when appropriate, the Commission made referrals.

The number of judgeships within the Commission’s jurisdiction has remained fairly constant at 1,259.



B. COMPLAINT DISPOSITIONS

The following case disposition statistics are based on cases completed by the Commission in 2015, regardless of when the complaints were received. In 2015, the Commission disposed of 493 cases.



C. CLOSED WITHOUT ACTION

In 480 of the 493 cases closed in 2015, a sufficient showing of misconduct did not appear after the information necessary to evaluate the complaint was obtained and reviewed. In other words, these files alleged facts that, even if true, would not constitute judicial misconduct. Investigation showed that the allegations were unfounded or unprovable, or the judge gave an adequate explanation of the situation, or the Commission lacked jurisdiction.

D. CLOSED WITH ACTION

In 2015, the Commission issued two letters of admonishment. Each of these dispositions is summarized in Section IV.

E. FORMAL COMPLAINTS

The Commission issued two formal complaints in 2015. They are summarized in Section IV.

Formal Complaint No. 97 – Hon. Richard B. Halloran

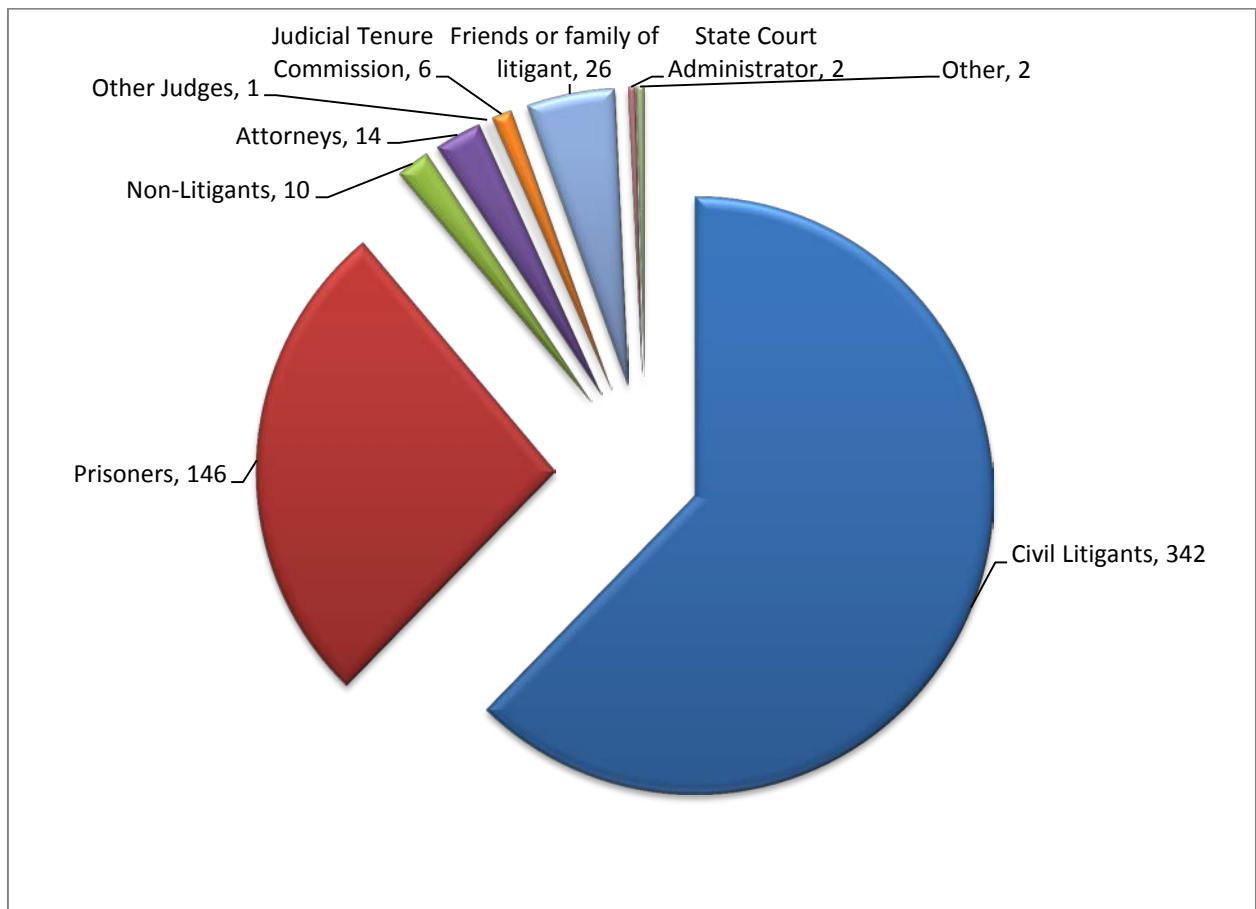
Formal Complaint No. 98 – Hon. Lisa O. Gorcyca

F. SUMMARY OF GRIEVANCES CONSIDERED IN 2015

The 512 requests for investigation received by the Commission derived from the following sources, covered the following subject matter, and were lodged against the following types of judges. The totals may not equal 512, as some grievances cover more than one judge or contain more than one type of alleged misconduct.

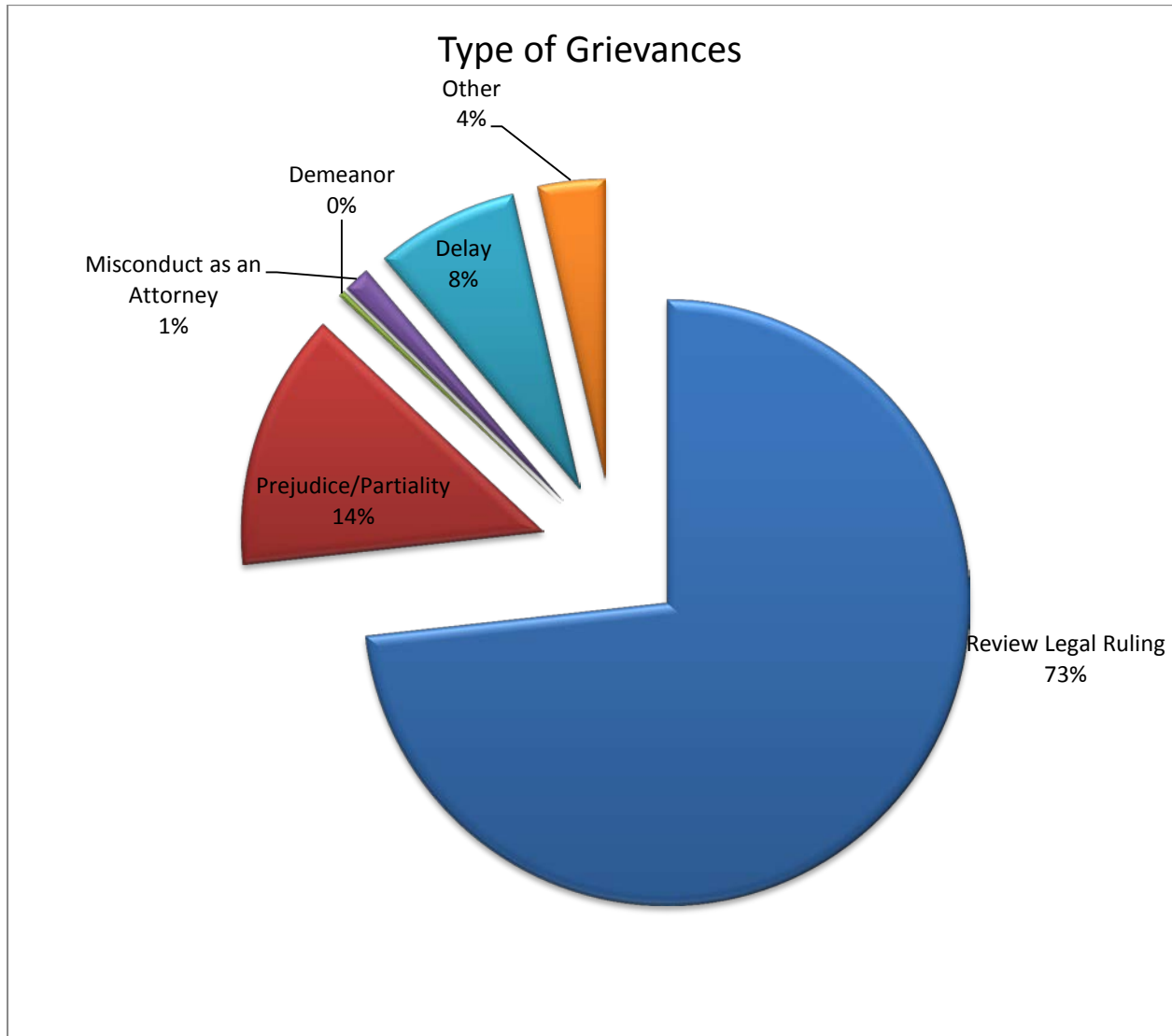
G. SOURCES OF GRIEVANCES

Litigants (including prisoners) filed the majority of requests for investigation, constituting nearly 90% of the total.



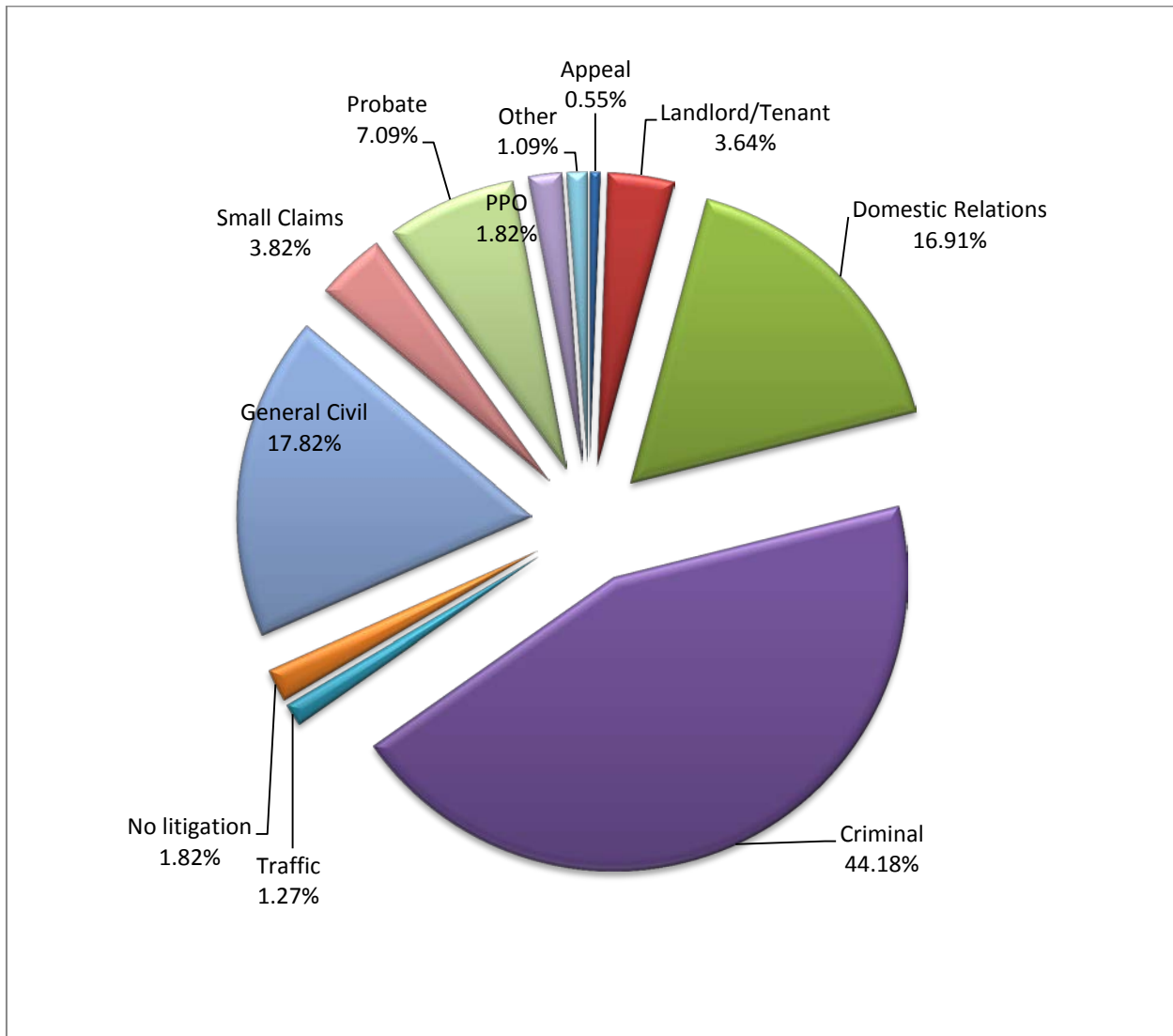
H. SUBJECT MATTER OF GRIEVANCES

Seventy-Three per cent of matters complained of in the Requests for Investigation sought to have the Commission review the merits of the underlying case. However, the Commission has no jurisdiction to act as an appellate body, so unless there was evidence of judicial misconduct, those matters were ultimately dismissed.



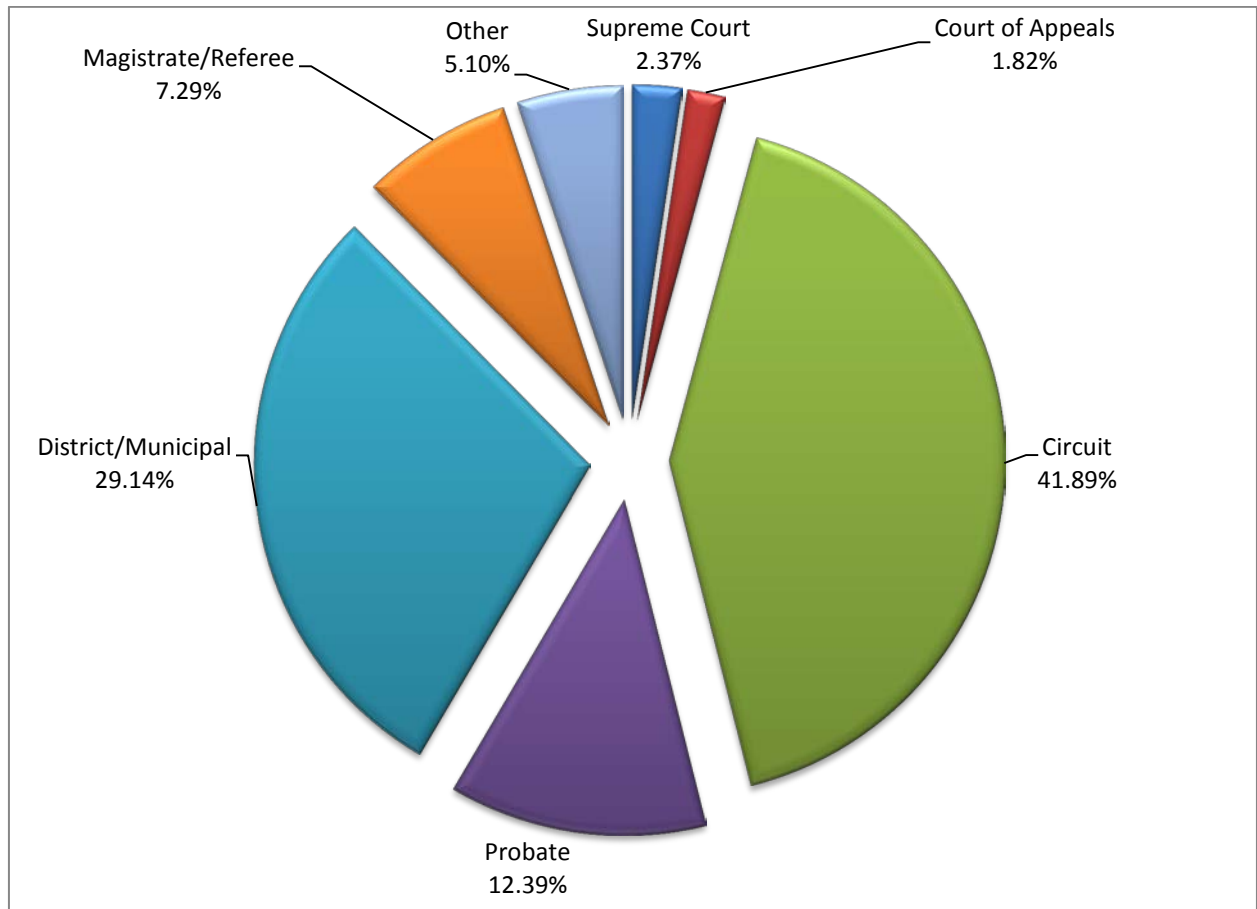
I. NATURE OF UNDERLYING LITIGATION

Criminal cases, domestic relations matters, and general civil cases continue to be the most common types of cases to produce grievances against the judge.



J. CATEGORIES OF RESPONDENT JUDGES

Circuit court judges, who comprise about 20% of the judiciary, received just over 40% of the grievances. This is most likely due to the circuit judges handling so much of the criminal and domestic relations dockets, which together generate about 60% of the grievances. District court judges, who comprise nearly 25% of the judiciary, received a relatively proportionate 29% of the grievances filed.



K. DISPOSITIONAL BREAKDOWN

The Court publicly censured and suspended one judge in 2015. The Commission issued two letters of admonition.

IV. CASE SUMMARIES

A. PUBLIC PROCEEDINGS

1. FORMAL COMPLAINTS

a) Formal Complaint No. 95, Hon. Brenda K. Sanders - 36th District Court (Wayne County)

On September 9, 2014, the Commission issued Formal Complaint No. 95 against Hon. Brenda K. Sanders of the 36th District Court. The complaint alleged that Respondent was suffering from a mental impairment that precluded her from serving as a judge, that she had defrauded the court by claiming sick time when she did not have a condition that so required, failed to co-operate with the Commission during the investigative process, including refusal to comply with a Supreme Court order regarding an independent medical examination by a psychiatrist, and that she had made false representations to the Commission during the investigation.

A hearing was held in October 2014, but Respondent did not attend. The master issued his report in January 2015, finding that Respondent was psychotic and unfit to serve as a judge. The Commission heard argument on February 9, 2015 and later issued a decision and recommendation that Respondent be removed from office. Respondent filed an objection to that recommendation in the Supreme Court, and then later withdrew her objection. The Court issued an order removing Respondent from office on July 1, 2015. *In re Sanders*, 498 Mich 856; 865 NW2d 30 (2015).

b) Formal Complaint No. 96, Hon. J. Cedric Simpson - 14A District Court (Washtenaw County)

The Judicial Tenure Commission issued Formal Complaint No. 96 against Hon. J. Cedric Simpson, of the 14A District Court, on November 12, 2014. Respondent was charged with

interfering in a police investigation involving his then-intern/friend, as well as with making false representations to the Commission during the course of the investigation.

On December 17, 2014, the Michigan Supreme Court appointed Hon. Peter D. Houk, a retired Ingham County Circuit Court Judge and a former prosecutor, as Master. A public hearing was conducted on March 30, March 31, and April 1, 2015. The Master issued his Findings of Fact and Conclusions of Law on April 28, 2015, concluding that Respondent had committed judicial misconduct by interfering in the investigation and prosecution of the criminal case against Ms. Vargas and by lying both to the Commission and at the hearing.

The Commission heard objections to the Master's report at a hearing held on June 8, 2015. The Commission overall affirmed the Master's findings of facts and conclusions of law and recommended that the Court remove Respondent from office. Respondent filed a motion to remand the matter back to the Commission based on an allegation that certain after-the fact e-mails had not been provided to him. On December 23, 2015, the Court granted that motion and remanded the matter to the Commission.

c) Formal Complaint No. 97, Hon. Richard Halloran - Third Circuit Court (Wayne County)

On September 1, 2015, the Commission issued a formal complaint against the Respondent, alleging that he was failing to establish the required jurisdictional elements before entering judgments of divorce. The Court appointed retired Wayne County Circuit Court Judge (and former prosecutor) John D. O'Hair as master. Respondent filed a motion for summary disposition, alleging that there were no genuine issues of material fact. The examiner agreed that there were no issues of fact. The parties argued their respective positions before the master who, on November 16, 2015, issued a report recommending that the Commission dismiss the matter or, in the alternative,

withdraw the formal complaint. At its January 11, 2016 meeting, the Commission dismissed the formal complaint.

d) Formal Complaint No. 98, Hon. Lisa Gorcyca - Sixth Circuit Court (Oakland County)

On December 14, 2015, the Commission issued a formal complaint against the Respondent, alleging that she had inappropriately exercised her contempt power against three children (aged 9, 11, and 13) for not having lunch with their father and not developing a good relationship with him. The children spent 2-1/2 weeks in the county juvenile facility. Respondent's demeanor at the hearing was also at issue. As of the compilation of this annual report, the Supreme Court had not yet appointed a master to hear the matter.

2. NON-FORMAL COMPLAINTS

a) Hon. R. Darryl Mazur – Jackson County District Court (-- Mich -- [2015])

In response to a Christmas card from a woman on probation to him, Respondent wrote back to her indicating that he was pleased to have run into her in a hall at the courthouse, and inquiring whether she would be interested in “seeing” him. They e-mailed each other for a few weeks. No actual relationship – dating or otherwise – ever developed between Respondent and the probationer, and there is no intimation of a *quid pro quo* for sex.

In addition, Respondent contacted another judge at his court on behalf of a criminal defendant he knew, seeking to get a personal bond. Respondent admitted his errors, self-reported, and agreed to a public censure and 30-day suspension without pay, which the Commission recommended to the Court, and which the Court imposed in an order dated November 25, 2015.

b) Hon. Elizabeth B. Church – Chippewa County Probate District Judge

Respondent agreed to a public censure and a 120-day suspension without pay for a number of instances of reducing and/or dismissing traffic matters without the authority of the prosecutor, and of engaging in ex parte communications with litigants. The matter was submitted to the Court for consideration, where it remains pending. [Due to health concerns regarding the Respondent, the attorneys stipulated to hold the matter in abeyance at the Court pending clarification of her health situation.]

B. NON-PUBLIC PROCEEDINGS

(1) On the Bench Conduct

A criminal defendant with two misdemeanor charges pending before Respondent failed to appear in court as scheduled. Respondent called the defendant, with the defense counsel present and told the defendant that “when you get this message you keep going because if I find you it will not be pleasant. Have a good day.” Respondent was admonished not to abuse his authority, flaunt his judicial power, or to be sarcastic.

(2) Off the Bench Conduct

Respondent took full responsibility for his unseemly off-the-bench conduct. You indicate that you accept “full responsibility and accountability” for your conduct at a local festival. Respondent was overtly hostile, behaved rudely, and used vulgarities toward festival workers during a public event. Respondent admitted to using inappropriate language to tossing an empty beer can at them. The Commission admonished the judge to remember that a judge is held to higher standards than other members of the public, and reminded him that a judge’s public behavior reflects on public’s perception of the court.

V. COMMISSION ORGANIZATION, STAFF AND BUDGET

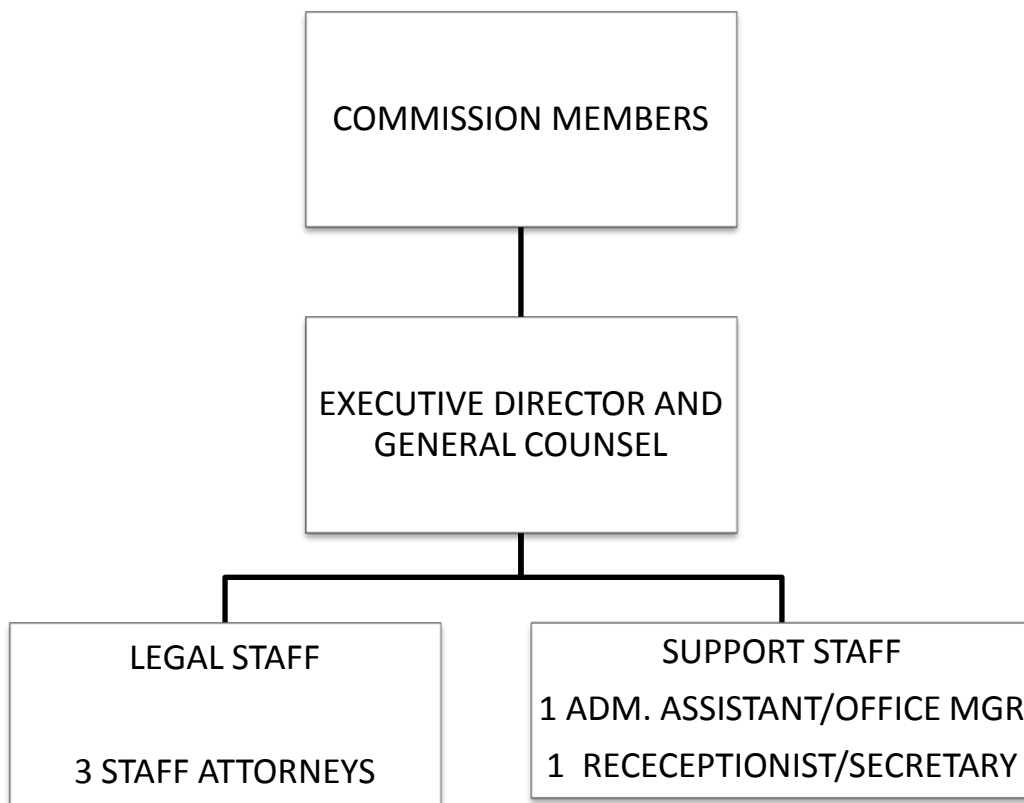
A. COMMISSION ORGANIZATION AND STAFF

The Commission has 6 staff positions, including the Executive Director, 3 staff attorneys and 2 support staff.

The Executive Director and General Counsel is hired by, and reports directly to the Commission. The Executive Director oversees the intake and investigation of complaints and is the examiner handling the formal proceedings. The Executive Director is also the primary liaison between the Commission and the judiciary, the public, and the media. Paul J. Fischer has served as Executive Director and General Counsel since January 1, 2001.

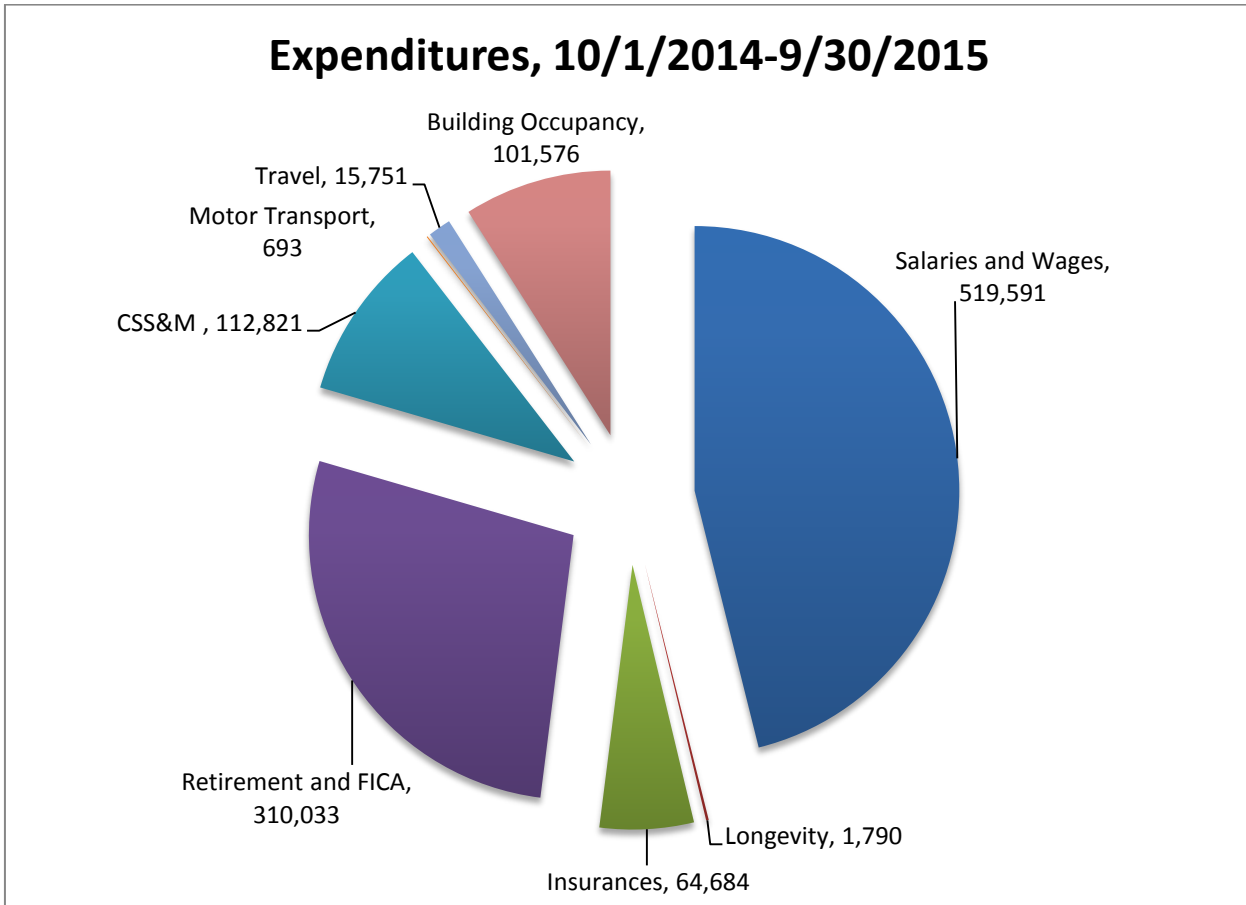
The Commission's legal staff is responsible for the evaluation and investigation of grievances and serves as associate-examiners during formal proceedings. The Commission's legal staff is comprised of Senior Staff Attorney Casimir J. Swastek, Staff Attorney Glenn J. Page, and Staff Attorney Margaret N.S. Rynier. The examiner is responsible for preparing cases for hearing and presenting the evidence that supports the charges before the master. The examiner handles briefing regarding master's reports, and presents cases orally and in writing in hearings before the Commission and the Michigan Supreme Court.

The Commission's support staff is comprised of Administrative Assistant-Office Manager, Camella Thompson and Receptionist-Secretary Celeste R. Robinson. All Commission staff members are state employees.



B. BUDGET

The Commission's budget is included in the budget of the Supreme Court. For the 2015 fiscal year (October 1, 2014–September 30, 2015), the Commission spent \$ 1,126,938, which was \$6,238 over its \$1,120,700 budget. However, the Commission also recovered \$32,188.10 in Court-ordered costs from respondent-judges. The Commission continues to do its part to keep its expenditures to a minimum.



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