

**ANNUAL REPORT  
OF THE  
ATTORNEY REGULATION  
ADVISORY COMMITTEE  
TO THE  
ARIZONA SUPREME COURT**

**APRIL 30, 2020**

**ARIZONA SUPREME COURT**  
**ATTORNEY REGULATION ADVISORY COMMITTEE (ARC)**

Committee Member List

As of January 2020

**Hon. Ann A. Scott Timmer, *Chair***  
Vice Chief Justice, Arizona Supreme Court

**Hon. William J. O'Neil, *Vice Chair***  
Presiding Disciplinary Judge

**Hon. Lawrence F. Winthrop**  
Court of Appeals

**Hon. Margaret Downie (*ret.*)**  
Attorney Member

**Whitney Cunningham**  
Attorney Member

**Lisa Panahi**  
Attorney Member

**Evelyn R. Hernandez**  
Attorney Member

**J. Scott Rhodes**  
Attorney Member

**Maria Hubbard**  
Attorney Member

**George Riemer**  
Attorney Member

**David W. Lunn**  
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**Karen Ryan**  
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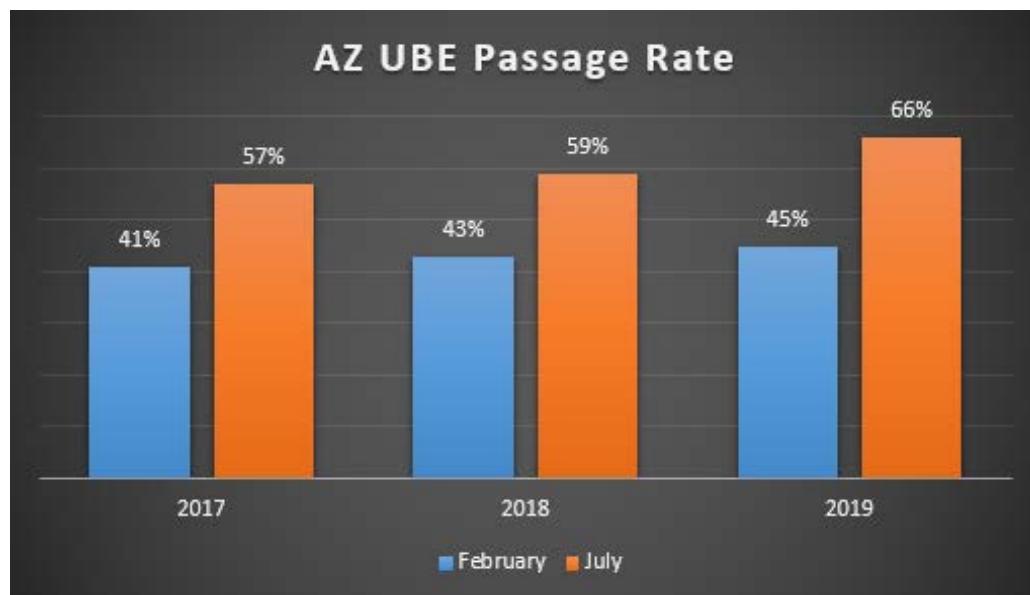
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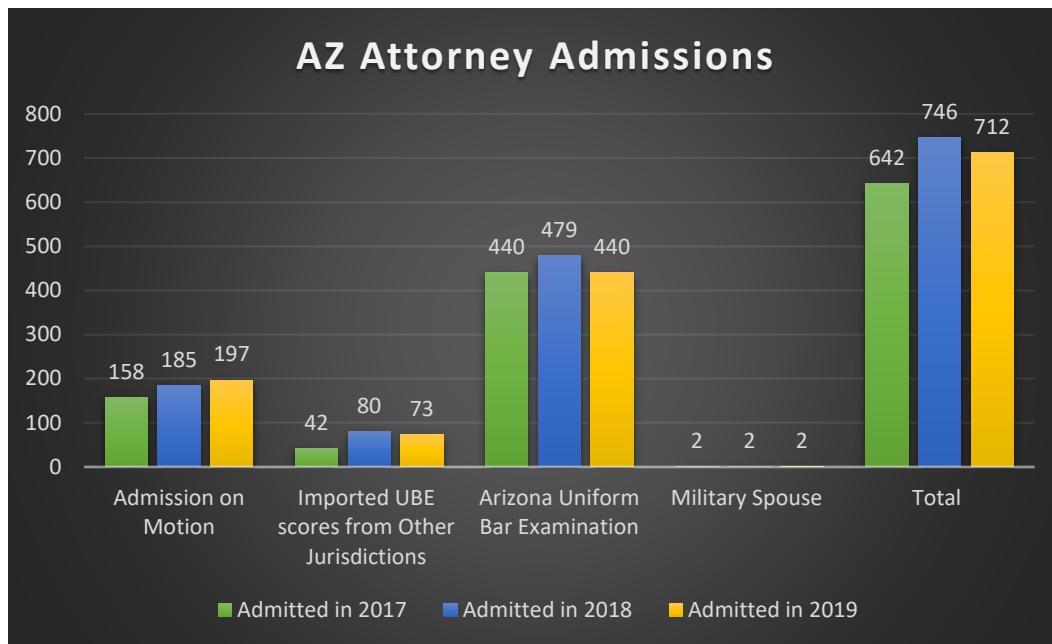
**ATTORNEY REGULATION ADVISORY COMMITTEE**  
**2019 ANNUAL REPORT**  
**April 30, 2020**

The Attorney Regulation Advisory Committee (“ARC”) was established by the Supreme Court of Arizona to periodically review the entire attorney admission and discipline system for the Court and make recommendations for any further needed changes. (Administrative Order No. 2011-44). ARC’s purpose is to review the rules governing attorney examination, admissions, reinstatement, and the disability and disciplinary processes and make recommendations regarding these rules “to reinforce lawyer competency and professionalism and strengthen the Supreme Court’s oversight of the regulation and practice of law in this state.” The Court directed ARC to submit an annual report each year by April 30. That report “shall contain case statistics on the processing of attorney admission and discipline cases and recommendations on specific issues addressed by the Committee”. This report is respectfully submitted for the 2019 calendar year.

**I. The Examination/ Admission Process and Statistics**

Arizona adopted the Uniform Bar Examination (“UBE”) in 2012 and has testing opportunities twice a year in February and July. A total of 486 applicants passed the Arizona Uniform Bar Examination in 2019, yielding an overall pass rate of 58.2%. 715 new attorneys were admitted in 2019: 197 by admission on motion, 73 via imported UBE scores earned elsewhere, 2 military spouse admission, 3 foreign legal consultants and 440 by exam.





In 2019, a total of 256 applicants who tested in Arizona requested their UBE scores be transferred to 28 different jurisdictions, the most frequently to:

- 48 New Mexico
- 31 District of Columbia
- 23 New York
- 19 Washington
- 19 Utah

A total of 86 UBE applicants requested their scores be transferred into Arizona. Jurisdictions with the most frequently imported scores were:

- 22 Colorado
- 12 New York
- 11 New Mexico
- 7 Utah

### **Character and Fitness**

Each applicant for admission must submit a detailed Character and Fitness Report. The Committee on Character and Fitness is charged with reviewing and, as necessary, investigating issues raised by these reports. As part of that process, and in compliance with the 2015 guidelines established by the Arizona Supreme Court, the Committee held a total of 44 informal proceedings in 2019, with the following results:

<b>Informal Inquiries in 2019</b>	
<b>Outcomes</b>	<b>Number of Inquiries</b>
Regular Admission	33
Conditional Admission	5
Referred for Formal Hearing	6
Withdrew Application	0
<b>Total</b>	<b>44</b>

24 investigations in 2019 resulted in formal proceedings, with the following results:

<b>Hearings in 2019</b>	
<b>Outcomes</b>	<b>Number of Hearings</b>
Regular Admission	8
Conditional Admission	5
Denied Admission	7
Withdrew Application	2
Conditional Admission Revocation	2
<b>Total</b>	<b>24</b>

In 2019, the Chairs of the Character and Fitness and Examinations Committees responded to petitions for review regarding the following issues:

<b>Committee on Character and Fitness Response to Petitions for Review</b>		
<b>Issues</b>	<b>Requests</b>	<b>Action by Supreme Court</b>
Waiver of ABA JD Requirement	4	4 granted
Motions to Extend Five-Year Requirement for Admission	10	10 granted
Waiver AOM Practice Requirement	6	5 granted, 1 pending
Motion to Reduce Five-Year Under 34(m)	1	1 granted
Comply with MPRE	1	1 denied
Reconsideration	1	1 denied
<b>Total</b>	<b>23</b>	<b>20 granted; 2 denied; 1 pending</b>

Committee on Examinations Response to Petitions for Review		
Issues	Requests	Action by Supreme Court
Petition Early Testing	1	1 granted
Extraordinary Circumstance, Overturn Failing Exam Score	6	6 denied
<b>Total</b>	<b>7</b>	<b>6 denied; 1 granted</b>

## Early Examination

In 2012, the Court approved a pilot program of early testing for law students in their last semester of law school, provided the semester was structured to allow for study and student engagement. The Supreme Court officially amended Rule 34 to allow early testing as a permanent admission option effective January 1, 2017. Applicants from any law school, certifying the student qualifies as an early tester may apply to sit as a third-year student. Of the two Arizona law schools, the University of Arizona consistently has the highest number of applicants apply as early testers. The overall statistics for 2019 are indicated in the chart below.

EARLY EXAM	Total Participants	Passed Exam	Pass Rate
<b>February 2019</b>	29	26	89.6%
University of Arizona	21	18	85.7%
Arizona State University	7	7	100%
Non-Arizona Law School	1	1	100%

Early tester applicants are eligible to sit for the exam; however, they are not eligible for admission in accordance with Rule 34(b)(2)(F) until satisfactory proof of an awarded of juris doctor degree is received by the Committee on Character and Fitness. In addition to earning the minimum passing score on the bar exam, early testers must satisfy the character and fitness requirement in order to be admitted to practice law.

February UBE scores are released the second week in May and many law schools conferred degrees after such date; therefore, not all February 2019 early testers were recommended for admission at the time of score release. Of the 29 early testers who sat for the February 2019 bar exam, 26 achieved successful scores. 19 of the 26 early testers filed a character and fitness application prior to the February UBE administration. After receipt of graduation and completion of other requirements was confirmed, 13 early testers were admitted in May. Of the remaining early testers who filed a character and fitness application sometime after the bar exam, 8 were admitted by the end of the year. Two early testers have not yet filed a character and fitness application to complete admission.

## **II. Lawyer Regulation**

Administrative Order 2011-44 directs that the annual ARC report shall contain case statistics on the processing of attorney regulation cases.

### **Statistical Summary**

The following comparative statistics are provided by the State Bar of Arizona, the Attorney Discipline Probable Cause Committee (“ADPCC”) and the Presiding Disciplinary Judge (“PDJ”). The State Bar, ADPCC and the PDJ have distinct responsibilities and capture data in slightly different ways to best reflect the performance of those responsibilities. The differences in the manner in which data has been captured are described in footnotes. The statistics provide a snapshot of the regulatory process, from intake and processing of complaints, investigation and resolution, either through closure, consent, presentation to and disposition by the ADPCC, and through the formal complaint process with orders issued by the PDJ, and review by the Arizona Supreme Court.

<b>Number of Attorneys Licensed to Practice</b>		
<b>2017</b>	<b>2018</b>	<b>2019</b>
24,261	24,500	24,809

<b>Summary of Regulatory Action Taken<sup>1</sup></b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Disbarred	21	15	18
Suspended	44	20	36
Reprimanded	20	29	21
Number of Informal Sanctions	85	34	47
Number of Diversions <sup>2</sup>	93	88	127
Number of Dismissals with Comment	204	219	253

<sup>1</sup> This chart represents all final orders through appeal as of December 31 of each respective year.

<sup>2</sup> This includes all diversion agreements entered by the State Bar and orders issued by the Attorney Discipline Probable Cause Committee.

## **Intake and Investigative Process**

The Intake process is designed to achieve two specific goals: (1) resolve the greatest number of inquiries/charges at the earliest stage of the process, and (2) expeditiously move the most serious charges of misconduct into the investigation phase.

Complainants are encouraged to talk with an Intake lawyer before submitting a written charge. This approach has personalized the process and has allowed for a better and timelier evaluation of the complainant's concerns. Many charges received by the State Bar's Lawyer Regulation Department represent allegations of low-level misconduct (such as lack of communication with the client) that can be appropriately resolved by means of providing instruction to the lawyer or directing the lawyer to resources that will quickly resolve the issue.

The system provides for immediate outreach to complainants and lawyers, which provides opportunities for lawyers to resolve the issue and complainants to receive an expedient resolution.

In all cases where the State Bar decides not to proceed to investigation, the rules require an explanation to complainants regarding that decision.

The charges that are not resolved by the State Bar in Intake are moved on to investigation. The process of determining what charges are referred for investigation usually includes securing a written statement from the complainant and often includes gathering additional information.

<b>Intake and Investigation</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Total charges received	3,221	3,047	2,874
Number of charges referred to investigation	609	555	480
Number of lawyers investigated relative to the charges referred	428	437	371
Percentage of complaints resolved in Intake (closed)	76%	75%	79%
Average days to resolve complaints in Intake (closed)	23	25	22
Average days to refer from Intake to Investigation	24	27	26
Average days for investigation	180	216	197

## **Attorney Discipline Probable Cause Committee**

The Attorney Discipline Probable Cause Committee (ADPCC) is a permanent committee of the Supreme Court (*See Rule 50.*) The ADPCC has three public members and six attorney members, and it meets monthly to review the State Bar's recommendations on charges. This committee is the gatekeeper for the discipline system, and it benefits from the public members' participation and their insight. After deliberation, the ADPCC may direct bar counsel to conduct further investigation, dismiss the allegations, or order one or more of the following: diversion, admonition, probation, restitution, and assessment of costs and expenses.

Additionally, if the committee believes the ethics violation(s) in question could justify the imposition of a reprimand, suspension or disbarment, it can authorize the State Bar to file a formal complaint with the Presiding Disciplinary Judge.

Before each monthly meeting, the State Bar provides each respondent with a written report of investigation that includes the State Bar's recommendation on the case. Pursuant to Rule 55(b)(2)(B), the State Bar also informs the complainant of the right to submit a written response and objection to the State Bar's recommendation.

The ADPCC meetings are confidential, and are not open to respondents, complainants or the public. At each meeting, the State Bar presents its cases orally and ADPCC members may ask questions, request additional facts, challenge the State Bar's recommendations or offer their own recommendations. In 2019, the ADPCC rejected or modified the State Bar's recommendation in 20 cases. In 5 cases, the ADPCC increased the severity of the recommended sanction or disposition. In 15 cases, it decreased the State Bar's recommended sanction or disposition.

The ADPCC organizes its statistics in a slightly different format from that of the State Bar, tracking the number and types of orders issued:

<b>Number of Matters<sup>3</sup> the ADPCC Reviewed and Number of Orders Issued</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Matters Reviewed	384	321	296
Number of Probable Cause Orders Authorizing a Formal Complaint	121	129	68
Number of Orders of Admonition	62	33	41 <sup>4</sup>
Number of Orders of Restitution	24	4	12
Number of Orders of Diversion	90	86 <sup>5</sup>	107

<sup>3</sup> A "matter" is defined as a State Bar action that results in an ADPCC order and may involve multiple charges. The statistics in this chart are calculated on a calendar year.

<sup>4</sup> This includes two admonitions from Independent Bar Counsel.

<sup>5</sup> This includes one diversion from Independent Bar Counsel.

<b>Number of Matters<sup>6</sup> the ADPCC Reviewed and Number of Orders Issued</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Denial of Appeals from State Bar Orders of Dismissal	40	38	33
Granted Appeals from State Bar Orders of Dismissal	2	4	4
ADPCC increased recommended sanctions or disposition (by charge)	12	6	5
ADPCC decreased recommended sanctions or dispositions (by charge)	17	15	15

### **Contested ADPCC Orders and Disposition**

Pursuant to Rule 55(c)(4)(B), attorneys receiving an order of diversion, stay, probation, restitution, admonition or assessment of costs and expenses may contest that order by demanding formal proceedings be instituted. In that event, the ADPCC order is vacated, and the State Bar files a formal complaint with the PDJ. In 2019, the following orders were appealed and converted to formal cases, with the following results:

- 18-1690        contested Admonition order; **result: Still pending**
- 18-2167        contested Admonition order; **result: Diversion**
- 18-2761        contested Admonition order; **result: Still pending**
- 18-3381        contested Restitution order; **result: Still pending**

### **Formal Cases**

#### **Office of the Presiding Disciplinary Judge**

The Presiding Disciplinary Judge (PDJ) presides over attorney regulation proceedings including ruling on motions, and evidentiary rulings. The PDJ individually rules on interim suspension requests, disability matters, and requests for protective orders. Other matters are decided by a hearing panel. The Chief Justice appoints a pool of volunteer attorney and public members to serve on hearing panels. Each three-member hearing panel is comprised of the Presiding Disciplinary Judge, one volunteer attorney member and one volunteer public member assigned by the disciplinary clerk. The hearing panels have statewide jurisdiction over proceedings on complaints of misconduct, applications for reinstatement, contempt and any other matters designated by the Court. In those matters, the hearing panels prepare findings of fact and conclusions of law. In discipline proceedings, the hearing panel issues a final judgment, subject to appeal to the Court. While hearing panel judgments are final, they do not serve as *stare*

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<sup>6</sup> A “matter” is defined as a State Bar action that results in an ADPCC order and may involve multiple charges. The statistics in this chart are calculated on a calendar year.

*decisis* precedent for future cases or constitute law. In reinstatement matters, the hearing panel makes a report and recommendation to the Court. The disposition of the matter by the Court establishes the finality of each report and recommendation.

The Office of the Presiding Disciplinary Judge is comprised of three individuals, Judge William J. O’Neil, Paralegal Michele Smith and Disciplinary Clerk, Brandi Ensign. The decisions of the PDJ or the hearing panels can be found online at <http://www.azcourts.gov/pdj>.

Under Rule 46(f)(1), the Disciplinary Clerk is designated by the Court to be the custodian of the record in all discipline, disability, and reinstatement proceedings and maintains the record. Under Supreme Court Rule 51, the PDJ may impose discipline on an attorney, transfer an attorney to disability inactive status and serve as chair of a hearing panel in discipline, disability proceedings and reinstatement hearings.

Formal matters include complaints, direct consent agreements, petitions for reinstatement, petitions for interim suspension and petitions for transfer to disability. The PDJ also reviews and issues orders on reciprocal proceedings and affidavit based reinstatement requests under Rule 64. Rule 64 reinstatements do not require a hearing; however, the State Bar may object and require the approval of the PDJ.

The use of hearing panels has provided public insight and participation for the lawyer regulation system that protects the public and provides transparency. The PDJ has the authority to issue a final judgment or order imposing any sanction, including disbarment. Statistically, using the PDJ has streamlined the processing of formal proceedings.

The chart below includes formal complaints, pre- and post- complaint consent agreements, interim suspensions, and reciprocal discipline proceedings. For some matters, such as agreements, it should be noted that the PDJ’s Office organizes its statistics in a slightly different format from that of the State Bar.

<b>Number of Various Filings by Category for the Past Three Years</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Formal Complaints	56	56	44
Pre-Complaint Consent Agreements	25	29	19
Post Complaint Consent Agreements	40	27	34
Interim Suspension	6	8	2
Probation Violations	6	3	5
Disability Petitions	2	4	3
Reciprocal Discipline	6	10	4

## Average Time to Order for Formal Matters

The charts below describe the average time from formal Complaint to Decision for all cases, contested cases, consent agreements and defaults.

<b>Average Time from Formal Complaint to Decision Order for All Types of Cases</b>			
	<b>2017<sup>7</sup></b>	<b>2018</b>	<b>2019</b>
Number of Days	122 (118.5 <sup>8</sup> )	106	112

<b>Average Time from a Formal Complaint to Decision Order for Contested Cases</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Days	164.5 (157)	186 <sup>9</sup>	161

<b>Average Time from a Formal Complaint to Decision Order for Default Cases</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Days	97.5 (94.5)	86	82

<b>Average Time from a Formal Complaint to Final Order for Consent Agreements</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Days	116	107	111

<sup>7</sup> The 2017 average time was modified to remove the Rorex matter, which was stayed for 324 days due to his transfer to inactive disability status.

<sup>8</sup> Three matters contained amended complaints. The average time was calculated using the start date of when the amended complaints were filed instead of the initial complaint date. The average time was primarily increased by requests by parties for written closing arguments and transcripts.

<sup>9</sup> 3 cases in 2018 extended this number: Rocco (224 days); Carter (221 days); and Harris (200 days).

## Sanctions or Outcomes for Formal Matters

Matters handled by the PDJ may result in various sanctions or outcomes including discipline, diversion or dismissal; protective orders; resignation orders and reinstatements. The charts below describe the sanctions or outcomes for the last three years. Diversions are not listed. ADPCC informal sanctions include Orders of Admonition, Restitution and Probation.

<b>Sanctions &amp; Outcomes<sup>10</sup></b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Disbarment	18	16	19
Suspension	44	21	38
Reprimand	21	29	21
Hearing Panel Dismissals	6	0	0

<b>Protective Orders Issued by PDJ<sup>11</sup></b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Protective Orders	54	69	87

<b>Resignation Orders in Lieu of Reinstatement Issued by PDJ</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Number of Resignation Orders	15	7	11

<b>Rule 64 &amp; Rule 65 Reinstatement Applications</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Rule 64 (e) <sup>12</sup>	7	15	12
Rule 65 <sup>13</sup>	13	12	4

<sup>10</sup> This chart provides statistics of decisions issued by the Presiding Disciplinary Judge as of December 31 of the corresponding year and may include orders that were on appeal to the Supreme Court.

<sup>11</sup> Protective Orders typically address concerns of public disclosure of confidential or personal information.

<sup>12</sup> Suspensions of six months or less.

<sup>13</sup> Suspensions of six months and one day or more or administrative suspensions exceeding two-years.

<b>Rule 64 and 65 Reinstatements Filed in 2019 with Status</b>			
<b>Cause Number*</b>	<b>Applicant</b>	<b>Recommendation by Hearing Panel</b>	<b>Status (As of date of report)</b>
2019-9004-R*	Gordan, David P.	-	Reinstated
2019-9006-R*	Brewer, John B.	-	Reinstated
2019-9012-R	Brown, Christy	Reinstate	Reinstated
2019-9030-R*	Nesbitt, Aaron B.	-	Reinstated
2019-9034-R*	O'Connor, Dean W.	-	Reinstated
2019-9043-R*	Jolley, James Andrew	-	Reinstated
2019-9045-R*	Bruen, Charles J.	-	Reinstate
2019-9046-R*	Guz, Cheryl C.	-	Reinstated
2019-9047-R*	Schaus, John G.	-	Reinstated
2019-9049-R	Bermudez, Felisa M.	-	Withdrawn by Party
2019-9051-R*	Keeling, Lynn A.	-	Withdrawn by Party
2019-9065-R*	Johnson, Edward	-	Reinstated
2019-9071-R*	Keeling, Lynn A.	-	Reinstated
2019-9078-R*	Van Der Walde, Paul	-	Objection Sustained**
2019-9083-R	Charles, Joseph W.	-	Withdrawn by Party
2019-9107-R	Margrave, Janet	Reinstate	Reinstated

\* Rule 64 reinstatements is by affidavit and ruled upon by the PDJ without a hearing panel.

\*\* Multiple objectively false statements were made in the Rule 64 affidavit. The State Bar objected. It was dismissed without prejudice. No subsequent affidavit has been filed.

### **Appeals to the Supreme Court**

Sanctions or outcomes of matters handled by the PDJ may be appealed to the Supreme Court. The chart below describes the notices of appeal either filed or concluded in 2019.

<b>2019 Notice of Appeals or Special Actions filed with Disciplinary Clerk with Status</b>			
<b>Cause Number</b>	<b>Case Name</b>	<b>Action or Sanction</b>	<b>Status (As of Date of Report)</b>
2018-9032	Rocco, Joseph P.	90-day suspension and 2 years LOMAP probation	Affirmed
2018-9079	Elcock, Jennifer Anne	Disbarment	No AZ License-Reprimand
2018-9092	Cartier, Don W.	3-year suspension	Appeal Dismissed by S. Ct.
2018-9071	Raynak, Daniel R.	6-month suspension	Pending
2019-9016	Smith, Donald H.	Disbarment	Pending
2019-9011	Bruno, Jason Mario	6-month suspension	Pending

## **Certificates of Good Standing and Discipline History Reports**

Certificates of Good Standing (COGS) and Discipline History (DH) Reports are processed by the Administrative Office of the Courts' Certification and Licensing Division and then they are reviewed and issued by the Disciplinary Clerk, pursuant to Ariz. Sup. Ct. Rule 74.

<b>Certificates of Good Standing &amp; Discipline History Requests</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
<b>COGS</b>	1795	1719	1662
<b>DH</b>	185	551	655

## **Independent Bar Counsel**

In 2001, the State Bar Board of Governors created a volunteer Conflict Case Committee (“Committee”) to timely process, investigate and prosecute all aspects of disciplinary matters that, because of the involvement (as applicants, complainants, respondents, material witnesses, or otherwise) of lawyers or others connected with the lawyer discipline system or the State Bar Board of Governors, should not be handled by counsel in the State Bar Lawyer Regulation Office due to conflict of interest concerns. Effective January 1, 2011, the Arizona Supreme Court substantially modified Arizona’s lawyer discipline system, eliminating the Hearing Officer and Disciplinary Commission positions that generated much of the Committee’s work, and replacing the State Bar Probable Cause Panelist with the Attorney Discipline Probable Cause Committee. The Court further determined that the timely, fair and impartial resolution of the cases previously assigned to the Committee and similar cases would be improved by devoting personnel and administrative resources in addition to those available using volunteers.

Accordingly, by Administrative Orders 2014-11 and 2018-20, the Court established the position of Independent Bar Counsel (“IBC”) and appointed a volunteer attorney panel to assist as necessary with the investigation and prosecution of matters assigned to IBC by the State Bar. The IBC reports quarterly to the chair of the ADPCC as to the status of all matters pending, and issues a report annually generally describing the nature and disposition of qualifying matters resolved during the preceding year.

The annual report also allows IBC to make any recommendations for improving Arizona’s lawyer admission, discipline, disability and reinstatement procedures. The following is the IBC report for 2019.

## **Independent Bar Counsel's Report Pursuant to Admin. Order 2018-20 ¶6(b)**

### **6(b)(i) General description of the nature and disposition of Qualifying Matters resolved by Independent Bar Counsel during the preceding year.**

This report includes cases for calendar year 2019. During that time, Independent Bar Counsel (“IBC”) received a total of twelve (12) new complaints. This is similar to the number of new complaints received in 2018, thirteen (13). It is greater than the number of new complaints IBC received in 2017 and 2016,<sup>14</sup> but less than those received in 2015.<sup>15</sup>

Below is a breakdown showing detail regarding the nature of the qualifying matter:

4(a)(i) (Board member)	4(a)(ii) (State Bar staff)	4(a)(iii) (ADPCC member)	4(a)(iv) (Lawyer previously with the State Bar)	4(a)(v) (Hearing Panel member)	4(b) (Other matters assigned by Chief Justice)	4(c) (Related matter)	4(d) (Hearing Panel members)
5	1	0	0	0	2	4	0

Five (5) matters were carried over.

A total of fourteen (14) cases were resolved in 2019 with the following breakdown:

Disbarment	Suspension	Reprimand	Admonition	Diversion or “other appropriate action” per Rule 55(a)(2)(B)	Dismissal with Comment	Dismissal by IBC
0	4	0	3	0	0	7

All remaining matters are under investigation.

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<sup>14</sup> In 2017, IBC received eight (8) new complaints and in 2016, IBC received four (4) new complaints.

<sup>15</sup> IBC received fifteen (15) complaints in 2015.

**6(b)(ii) IBC's recommendations for improvements to Arizona lawyer admission, discipline, disability and reinstatement procedures.**

IBC has not yet had an opportunity to become involved in matters of lawyer admission, disability or reinstatement proceedings and consequently has no recommendations other than remind those involved with lawyer admission, disability or reinstatement that she is available to assist.

Currently, IBC does not have any recommended improvements to the attorney discipline system.

In addition to work investigating qualifying matters under Admin. Order 2018-20, IBC spent the balance of her time as acting disciplinary counsel, investigating complaints about judges made to the Commission on Judicial Conduct (“CJC”). This activity is authorized by paragraph 2 of Admin. Order 2018-20.<sup>16</sup>

### **III. Review by the Arizona Supreme Court**

The Arizona Supreme Court has exclusive authority over the regulation of attorneys. *Scheehle v. Justices of the Supreme Court of the State of Arizona*, 211 Ariz. 282, 289 ¶ 22 (2005). “[T]he practice of law is a matter exclusively within the authority of the Judiciary. The determination of who shall practice law in Arizona and under what condition is a function placed by the state constitution in this court.” *Hunt v. Maricopa County Employees Merit Sys. Comm'n*, 127 Ariz. 259, 261–62 (1980). In addition to overseeing the attorney discipline and admissions procedures in Arizona, the Court reviews specific cases that come before it for review. The Court considers appeals in formal attorney disciplinary matters, reviews recommendations of hearing panels in reinstatement cases, considers petitions for review from decisions of the Committee on Character and Fitness and the Committee on Examinations in admissions matters, and reviews recommendations for the conditional admission of applicants. Below are statistics for attorney discipline and admission cases that came before the Court in the past three years.

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<sup>16</sup> IBC investigated and analyzed 11 of the CJC’s 414 cases in 2019 or about 3%. This is down from the 11% of CJC cases IBC investigated in 2018.

<b>DISCIPLINARY APPEALS</b>			
	<b>2017<sup>17</sup></b>	<b>2018</b>	<b>2019</b>
Filed	13	8	5
Concluded	12	10	6
Pending at year end	7	5	4
Average Days to Conclusion	180	161	182

<b>REINSTATEMENTS</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Filed	11	11	3
Concluded	9	10	6
Pending at year end	3	4	1
Average Days to Conclusion	73	77	83

<b>PETITIONS FOR REVIEW (ADMISSION)</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Filed	21	23	18
Concluded	20	24	19
Pending at year end	10	9	8
Average Days to Conclusion	74	57	64

<b>CONDITIONAL ADMISSIONS</b>			
	<b>2017</b>	<b>2018</b>	<b>2019</b>
Filed	6	9	12
Concluded	4	10	11
Pending at year end	3	2	3
Average Days to Conclusion	53	57	46

#### **IV. ARC Action on Rule-Change Petitions**

During 2019, ARC participated in drafting portions of proposed rule changes or provided comments on the following rule petitions:

- R-18-0024 Amend Rule 64(f)(1)(B)
- R-19-0004 Amend Rule 34(b)(1)(D)
- R-19-0010 Amend Rule 37(c)
- R-19-0011 Amend Rules 38 and 39
- R-19-0026 Amend Rule 70
- R-19-0030 Amend Rule 43

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<sup>17</sup> The 2017 statistics do not include three appeals that were unusual in that these appeals required a remand to the hearing panel.