

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

APRIL 29, 2016

ARIZONA SUPREME COURT
ATTORNEY REGULATION ADVISORY COMMITTEE (ARC)
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As of December 2015

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Presiding Disciplinary Judge

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ATTORNEY REGULATION ADVISORY COMMITTEE
2015 ANNUAL REPORT
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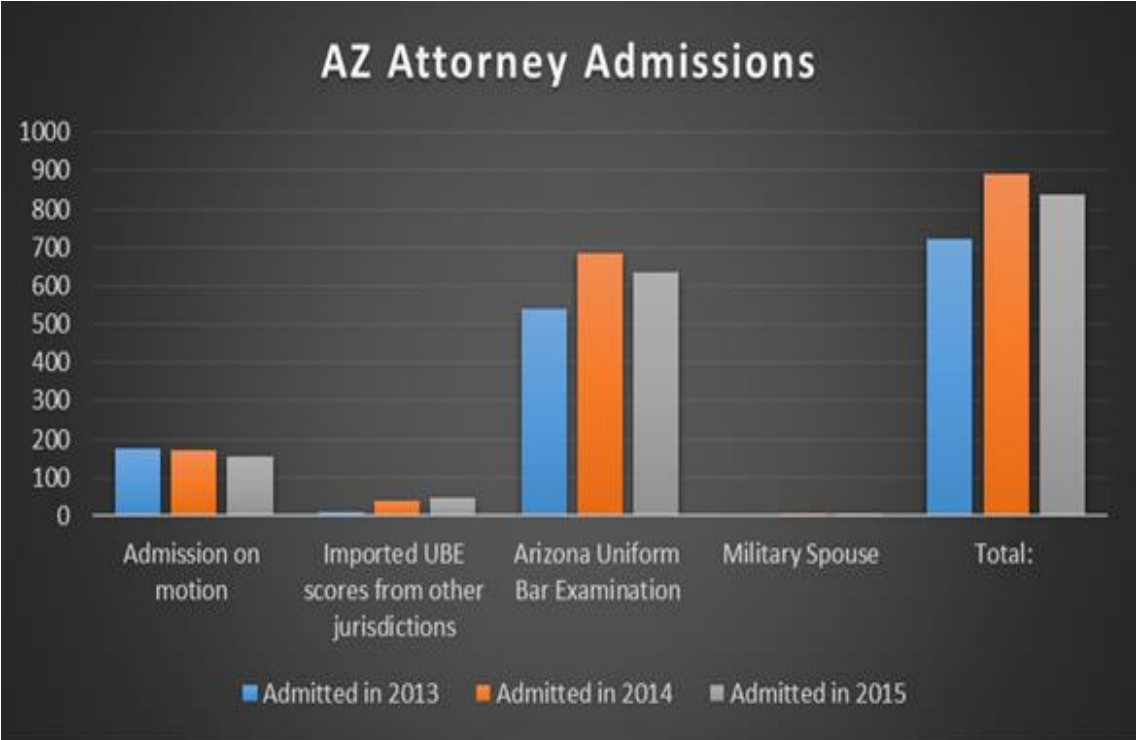
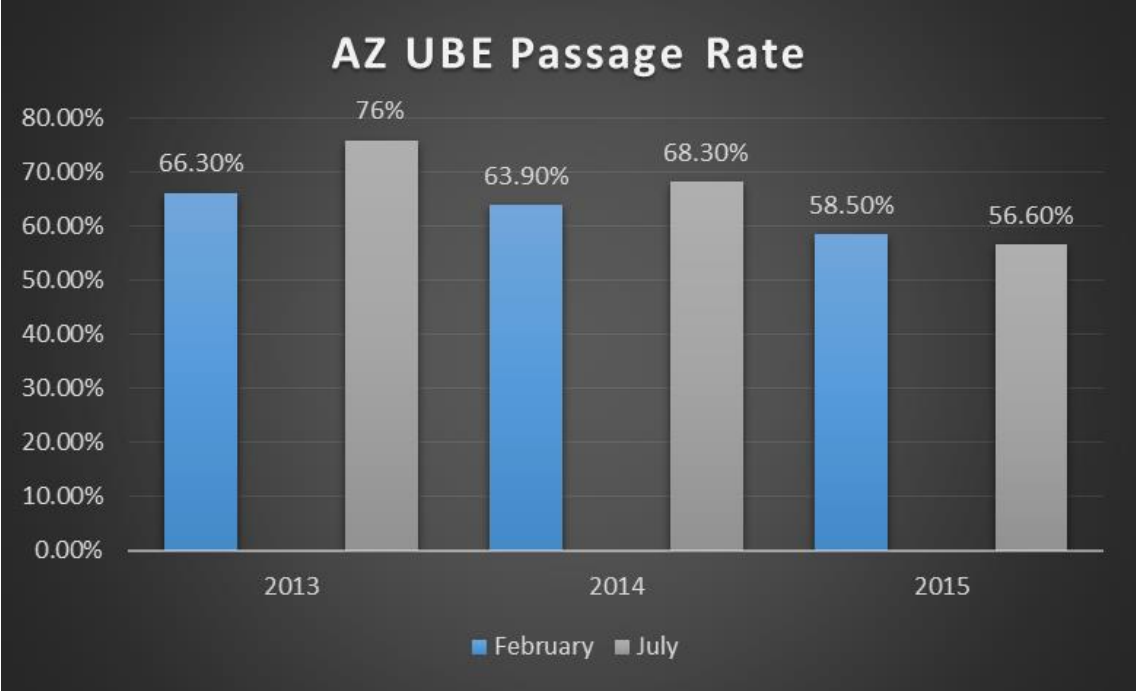
The Attorney Regulation Advisory Committee (“ARC”) was established by the Supreme Court of Arizona to periodically review the entire attorney admission and discipline system for the Court and make recommendations for any further needed changes. (Administrative Order No. 2011-44). ARC’s purpose is to 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 2015 calendar year.

Comparative Number of Attorneys Licensed in Arizona

1990	2000	2010	2013	2015
7,579	12,991	21,374	22,954	23,794

I. The Examination/ Admission Process and Statistics Update

Arizona adopted the Uniform Bar Examination (“UBE”) in 2012 and has testing opportunities twice a year, typically in February and July. A total of 635 applicants passed the Arizona Uniform Bar Examination in 2015, yielding an overall pass rate of 57.37%. **837 new attorneys were admitted in 2015:** 153 by admission on motion, 47 via imported UBE scores earned elsewhere, 2 military spouse admissions and 635 by exam.



In 2015, a total of 174 applicants who tested in Arizona requested their UBE scores be transferred to 15 different states, the most frequently to:

Washington	44
Colorado	30
Minnesota	23
Utah	20

A total of 67 UBE applicants requested their scores be transferred into Arizona. Jurisdictions with the most frequently imported scores were:

Colorado	25
Utah	11
Washington	8
Missouri	6

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 (*see p. 8*), the Committee held a total of 40 informal proceedings in 2015, with the following results:

Informal Hearings/Informal Inquiries in 2015		
Outcomes		Comments
Regular Admission	23	
Conditional Admission	9	
Referred for Formal Hearing	6	
Withdrew Application	0	
Pending	2	Committee requested further information from applicants before proceeding
Total	40	

Seven investigations in 2015 resulted in more formal proceedings, with the following results:

Formal Hearings/Hearings in 2015		
Outcomes		Comments
Regular Admission	5	
Conditional Admission	1	
Denied Admission	0	
Withdrew Application	0	
Pending	1	Pending finalization of conditional admission
Total	7	

In 2015, the Chairs of the Examinations and Character and Fitness Committees responded to petitions for review regarding the following issues:

Committee on Character and Fitness Response to Petitions for Review		
Issues	Requests	Action by Supreme Court
Waiver of ABA JD Requirement	4	2 granted; 2 denied
Extend Exam Score	3	3 granted
Waiver AOM Practice Requirement	0	0
AOM-Diploma Privilege	1	1 granted
Comply with MPRE	1	1 denied
Total	9	6 granted/3 denied

Committee on Examinations Response to Petitions for Review		
Issues	Requests	Action by Supreme Court
Denial of Testing Accommodations	3	3 denied
Extraordinary Circumstance, Overturn Failing Exam Score	14	14 denied
Total	17	17 denied

ARC Action Related to Admission Issues

Character and Fitness

Admissions Processing:

In January 2015, the Supreme Court amended Rule 36 in a number of subsections related to the attorney admissions process. Per the rule changes, the following highlights are provided as an overview of the changes:

- Modification to the hearing process to move from informal hearings to informal inquiries.
- Removed requirement of full Committee attendance for formal hearings and created five member panels to make final determination decisions.
- Investigative member may not participate in the panel's deliberations.
- Admissions staff management authorized to deem certain applicants qualified without further review by the Committee.
- Admissions staff authorized to recommend to Committee Chair that matter proceed to informal inquiry or hearing.

Guidelines:

In June 2015, the Supreme Court issued specific guidance to the Committee on Character and Fitness regarding substance abuse and financial responsibilities. In these *Guidelines*, the Court emphasized the importance of the fitness of applicants as indicated in various subsections of Rule 36 of the Rules of the Supreme Court and provided direction on requisite committee actions. In response, the Committee on Character and Fitness began implementing various changes regarding hearing procedures and admissions timelines.¹

The *Supreme Court Guidelines* can be found online at:

<http://www.azcourts.gov/Portals/26/admis/2015/NewCFGuidelines72015WebPostingFINAL.pdf>

Other Admissions Issues

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. **One benefit of this program is that it allows successful participants to accelerate their entry into the practice of law and, in many cases, reduces the amount of debt the participant must incur to sustain themselves while awaiting admission.** In February, 2015, 47 students from the three Arizona law schools participated in early testing, with a pass rate of 83%. Attorney Admissions provided an update to ARC in September 2015 and will submit a final report to the Court by June 2016. Representatives from the Arizona law schools provided positive feedback regarding the early testing program and have encouraged the Court to continue to offer the opportunity for students to test early and enter the workforce earlier.

¹ After the *Guidelines* were adopted mid-year of 2015, no noticeable change was realized for the balance of 2015 in the number of informal proceedings from the previous calendar year; as of the date of this report, informal hearings appear to be on the increase.

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 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.

Number of Attorneys:	2014	2015
Licensed to Practice	23,426	23,794

Summary of Regulatory Action Taken		
	2014	2015
Disbarred	13	12
Suspended	38	39
Reprimanded	18	25
Number of Informal Sanctions	39	80
Number of Diversions	73	86 ²
Number of Dismissals with Comment	202	186

² This number includes 5 diversions that were finalized in the Intake process rather than as a result of an ADPCC order.

1. 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 Lawyer Regulation 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 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 oftentimes includes gathering additional information.

Intake and Investigation		
	2014	2015
Total charges received	3,549	3,127 ³
Number of charges referred to investigation	751	664
Number of lawyers investigated relative to the charges referred	422	391
Percentage resolved in Intake (closed)	71%	81%
Average days to resolve in Intake (closed)	29	27
Average Days to refer from Intake to Investigation	24	27
Average days for investigation	247	200

³ There was a significant decrease in the number of charges received by the State Bar. From year to year the number of charges received can fluctuate in either direction but they have remained relatively steady over the past few years. The current downward cycle is not necessarily isolated to Arizona. It has been reported by a number of other jurisdictions that their agencies are seeing a similar decrease in the number of charges being received. Although there is no one identifiable reason for a decrease in the past year it is generally observed across the country that when the economy improves there is a decrease in the number of charges. The collective effect of outreach and other remedial offerings to lawyers may also influence the number of charges. Another consideration is the decline in the public's use of attorneys for legal services. Access to legal services is a significant issue that could impact the number of charges. Over the years the majority of charges received by the State Bar are generated by a lawyer's client. If consumers are not engaging lawyers for legal services or are engaging them to a lesser degree, there is diminished opportunity for that person to assert concerns about a lawyer's conduct. This too could affect the number of charges received.

2. Attorney Discipline Probable Cause Committee

The Attorney Discipline Probable Cause Committee 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 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 respondent with a written report of investigation that includes the Bar's recommendation on the case. Respondent may provide a written response to the ADPCC. Pursuant to Rule 55(b)(2)(B), the State Bar also informs the complainant of the recommendation and the right to submit a written objection to that recommendation. At each meeting, the Bar presents its cases orally and ADPCC members may ask questions, request additional facts, challenge the Bar's recommendations or offer their own recommendations. In 2015, the ADPCC rejected or modified the State Bar's recommendation in 13 cases. In 3 cases, the ADPCC increased the recommended sanction or disposition. In 10 cases, it decreased the State Bar's recommended sanction or disposition. The ADPCC meetings are confidential, and are not open to respondents, complainants or the public.

The State Bar tracks the number of charges reviewed by the ADPCC, rather than the number of respondents that are the subject of the charges, or the number of orders generated by the Committee. This difference in data collection/reporting is reflected in the next two charts:

Number of Charges the ADPCC Reviewed and Number of Orders in the Past Three Years			
	2013	2014	2015
Number of Charges Reviewed	348	305	554
Number of Charges for which ADPCC Authorized a Formal Complaint	136	132	315 ⁴
Number of Charges of Admonition	28	29	16
Number of Charges of Probation	3	0	42
Number of Orders of Restitution	18	17	26
Number of Orders of Diversion	63	59	81

⁴ From year to year it is not uncommon to see some fluctuation in the charges received and the number of formal complaints filed. Those fluctuations do not always have some discernable cause. In 2015 it appears that there was some increase in the number of charges that ultimately resulted in the filing of a greater number of formal complaints. In addition, the State Bar implemented a new case management system in 2014. At the time of implementation, the system's reporting capabilities were not fully developed and were not deployed. It was not until late 2014 that the reporting features were completed. During the time period where there were limitations on the ability to actively track cases, some cases slowed in the process. When reporting capabilities were fully functional it was apparent that there was a need to move some of these cases more expeditiously. This resulted in an increase in the number of cases being brought to the Committee and, upon receipt of a probable cause order from ADPCC, additional formal complaints eventually filed with the Presiding Disciplinary Judge. In 2015, the 315 charges of misconduct resulted in 172 probable cause orders, as compared to 121 probable cause orders in 2014, and 75 such orders in 2013.

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

Number of Matters⁵ the ADPCC Reviewed and Number of Orders Issued			
	2013	2014	2015
Number of Matters Reviewed	220	289	413
Number of Probable Cause Orders Authorizing a Formal Complaint	75	121	172
Number of Orders of Admonition	28	31	62
Number of Orders of Restitution	18	17	26
Number of Orders of Diversion	63	59	81
Denial of Appeals from State Bar Orders of Dismissal	36	46	49
ADPCC increased recommended sanctions (by charge)	6	4	3
ADPCC decreased recommended sanctions (by charge)	13	16	12
Number of ADPCC orders appealed/converted to formal cases per Rule 55(c)(4)(B) (see summary of results below)	Not tracked	3	4

⁵ A “matter” is defined as a State Bar action that results in an ADPCC order, and may involve multiple charges.

Appeals from 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 demand formal proceedings be instituted. In that event, the ADPCC order is vacated, and the State Bar files a formal complaint with the PDJ. In 2015, the following orders were appealed and converted to formal cases, with the following results:

14-0921	appealed Restitution Order; result: dismissal
14-3195	appealed Restitution Order; result: still on appeal
15-0215	appealed Admonition; result: Admonition

3. Formal Cases

Office of the Presiding Disciplinary Judge

In 2010, the Arizona Supreme Court adopted a series of changes to the attorney regulation system, including the Office of the Presiding Disciplinary Judge. The Presiding Disciplinary Judge presides over attorney regulation proceedings and issues orders with a two-member hearing panel at trials and hearings. The Office of the Presiding Disciplinary Judge is comprised of three individuals, Judge William J. O’Neil, Paralegal Michele Smith and Disciplinary Clerk Amanda McQueen. Ms. McQueen joined the office at the end of 2015. Ms. McQueen has a Bachelor of Science in Political Science. She was a paralegal to a law firm before working for the last five years at the Attorney General’s Office as a paralegal/legal secretary.

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 a member 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 they allow State Bar objection and require the approval of the PDJ.

Contested and default cases are heard by hearing panels, comprised of the PDJ, a volunteer attorney member and a volunteer public member. Under Rule 52, the PDJ serves as the chair of each hearing panel and handles all prehearing matters. Using hearing panels has provided additional 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.

Statistical Review

As of the date of this report, all filings with the office are concluded through 2015, except as are on review by the Supreme Court. 2015 appears to be an aberrational year with 97 formal filings. The number of formal matters rose significantly when compared to prior years. (See footnote 4). However, assuming filings for 2016 remain constant, it can be anticipated there will be approximately 66 formal matters filed in 2016. By comparison, in 2011 there were 68 formal filings and in 2012 there were 72 formal matters filed. At the same time the number of applications for reinstatement returned to a typical level after a significant decrease in 2014.

Notwithstanding the increase in filings, the average time from the filing of the formal complaint to the final order was reduced from the prior year. This is due to the significantly higher number of all types of consent agreements.

“Formal matters” reflected in the chart include both formal complaints and pre-complaint consent agreements.⁶

Number of Formal Matters and Consent Agreements for the Past Three Years			
	2013	2014	2015
Formal Matters	79	67	97
Pre-Complaint Consent Agreements ⁷	27	18	41
Post Complaints Consent Agreements	20	32	32

	2013	2014	2015
Interim Suspension	3	3	3
Reciprocal Discipline	Not tracked ⁸	1	4

⁶ Pre-complaint consent agreements may be filed in lieu of a formal complaint. Such an agreement contains a stipulated set of facts and stipulated sanction.

⁷ The numbers in this row are a subset of the numbers in the formal-matters row.

⁸ This data was not tracked prior to 2014. These numbers are not included in the Sanctions and Outcomes table below.

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Average Time from Formal Complaint to Final Order for All Types of Cases			
	2013	2014	2015
Number of Days	88	96	91 ⁹

Average Time from a Formal Complaint to Final Order for Contested Cases			
	2013	2014	2015
Number of Days	179	151	131 ¹⁰

Consent agreements: The PDJ may accept, reject, or recommend modifications of such proposed consent agreements. In 2014, the average time to a final order on consent agreements from the filing of the formal complaint to formal order increased. Each case involves unique circumstances. Unlike in prior years, in 2014 seven agreements were delayed for various reasons or agreements were reached shortly before trial. These seven cases averaged 159 days to final order, altering the average time. Overall, this remains an efficient and swift process for consent agreement cases.

Average Time from a Formal Complaint to Final Order for Consent Agreements			
	2013	2014	2015
Number of Days	74	85	52

⁹ These figures do not include case number 2014-9041 (Wroblewski). The initial 50 count complaint was stayed when additional charges were received resulting in a 141 count supplemental complaint. To enable all charges to be consolidated, the first action was stayed. If included in the calculations, the average time to contested final order would increase to 214 days. Including these combined aberrational cases with a cumulative 191 counts would not present an accurate reflection of the process.

¹⁰ *Supra* note 9.

Average Time from a Formal Complaint to Final Order for Default Cases¹¹			
	2013	2014	2015
Number of Days	82	110	89

Sanctions & Outcomes			
	2013	2014	2015
Disbarment	25	13	13
Suspension	28	38	39
Reprimanded	26	18	25
Informal Sanctions by ADPCC	49	39	80
Diversions	88	73	86
Charges dismissed with comment	209	202	186

¹¹ The time limits imposed by rule in default cases substantially dictate the average time to a final order. As a result it is typical for the average time to final order in a case in which an attorney does not appear and is defaulted to be significantly longer than in a consent agreement case where an attorney appears.

Reinstatements Concluded in 2015¹²					
Cause Number¹³	Applicant	Panel Report	Recommendation by Hearing Panel	Supreme Court Decision	Outcome
13-9038	Charles	12/26/2014	Reinstate	04/21/2015	Reinstated
13-9086	Childers	12/04/2014	Reinstate	03/31/2015	Reinstated
14-9066	Cargill	12/19/2014	Denial	04/21/2015	Dismissed
14-9067	DeHaven	12/12/2014	Reinstate	03/17/2015	Reinstated
14-9084	Largent	01/28/2015	Reinstate	04/21/2015	Reinstated
14-9096	Sterrett	03/10/2015	Reinstate	05/26/2015	Reinstated
14-9108	Jenkins		Dismissed by PDJ Order		
15-9034	Saber	07/06/2015	Reinstate	09/22/2015	Reinstated
15-9049	Bradford	<i>Withdrawn</i>			
15-9059	Harris		Dismissed by PDJ Order		
15-9099	Reynolds	<i>Withdrawn</i>			

Appeals Filed in Supreme Court			
	2013	2014	2015
Appeals Filed with Supreme Court	7	8	7

¹² In reinstatements the Hearing Panel makes a recommendation to the Supreme Court. The Court determines whether the application should be granted, denied or dismissed. Matters identified as pending are as of 12/31/2015 and may be concluded by the time of this report.

¹³ The Cause number assigned identifies the year the application was filed.

Supreme Court 2015 Rulings on Appeals from Discipline				
Cause Number	Panel Report	Order by Hearing Panel	Supreme Court Decision	Outcome
14-9009	10/15/14	2 Year Suspension	05/27/15	3 Year Suspension
14-9015	09/24/2014	Disbarment	04/13/2015	Affirmed
14-9019	07/03/2014	Diversion	01/07/2015	3 Month Suspension
14-9026	08/28/2014	Disbarment	03/20/15	Affirmed
14-9039	10/06/2014	Reprimand	02/10/2015	Affirmed
14-9051	04/10/15	Disbarment	12/15/2015	10 Month Suspension
14-9082	05/18/2015	Disbarment	12/04/2015	Affirmed
14-9098	03/12/2015	3 Year Suspension	07/06/2015	Affirmed

Note: The Court dismissed an appeal of a 12/20/2014 denial of a motion for relief from judgment from a consent for disbarment on 09/13/2015.

4. 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 Order 2014-11, 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 2015.

IBC’s Report Pursuant to Admin. Order 2014-11, ¶6(b)

General description of the nature and disposition of Qualifying Matters resolved by IBC during the preceding year.

In 2015, IBC received a total of fifteen (15) new complaints. This is significantly less than the twenty-eight (28) complaints received in 2014.

IBC believes the number of complaints received in 2014 was greater, in part, due to the backlog of cases to be resolved by the volunteer Conflict Case Committee. IBC notes that of the cases received in 2014, six (6) were from 2013 and one (1) was from 2012. Thus, the total number of cases that actually arose in 2014 was twenty-one (21).

Of the fifteen (15) new complaints IBC received in 2015, ten (10) remain open with the breakdown below:

Formal Cases	Cases pending appeal to ADPCC	Cases pending appeal to Arizona Supreme Court	Cases pending settlement agreement	Cases under investigation
0	0	0	0	10

Seven (7) of the fifteen (15) cases were transferred from the State Bar to IBC under Section 4(a) of the Administrative Order.

Below is a breakdown showing details 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) (Hearing Panel members)
3	1	1	0	2	2	0

Five (5) cases were assigned to IBC because the State Bar, as a matter of practice, often groups case files that involve the same complainant or respondent. Finally, one (1) case was sent to IBC because of the respondent’s “past and continuing close association with the bar.”

Fourteen (14) matters were carried over from 2014 and resolved in 2015. A total number of nineteen (19) cases were resolved in 2015 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
6	1	0	3	1	0	8

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 procedures and consequently has no suggested recommendations other than perhaps to remind those involved with lawyer admission, disability or reinstatement that IBC is available to assist as needed.

Regarding the attorney disciplinary process, IBC has suggested that the existing Administrative Order be amended to create a new category for referrals under current ¶4 (Qualifying matters) that would allow Chief Bar Counsel to assign additional discipline cases to IBC that do not otherwise qualify under ¶4, for the purpose of enhancing on-going training for

IBC. Additional training and experience will enhance IBC's ability to investigate, analyze and resolve attorney discipline matters. Referring additional matters to IBC will also help the State Bar achieve its goal of efficient resolution of attorney discipline matters. This in turn, would help the public. Thus, authorizing additional referrals will be beneficial to IBC, to the State Bar and to the public. The assignment of such additional matters should be left to the discretion of Chief Bar Counsel, or to Chief Bar Counsel, in consultation with the chair of ADPCC and the Executive Director of the Commission on Judicial Conduct.

III. ARC Action on Rule-Change Petitions

During 2015, ARC participated in drafting portions of rule changes or provided comments on the following rule petitions:

- **Petition R-15-0041 – Amending Rules 46(c) and (d)**

In late 2015, ARC filed a petition that would provide the State Bar of Arizona discretion to pursue lawyer discipline against a former judicial officer. The petition also sought to clarify jurisdictional issues related to the State Bar and the Commission on Judicial Conduct related to judges with alleged misconduct as lawyers prior to being appointed to the bench and former judges returning to the practice of law that engaged in misconduct while serving as a judge. This petition is expected to be heard and decided upon by the Court in mid-2016.

- **Petition R-15-0018 – Amending Rules 31, 34, 38, 39 and 42**

This petition proposed significant changes to the changing nature of the practice of law and incorporated several recommendations derived from the ABA's 20/20 Commission and the Arizona Supreme Court Committee chaired by Justice Timmer. As several of the ARC members were also members of a Committee designed to develop this petition, ARC spent significant time discussing the multiple changes and potentially impact of such proposals. ARC ultimately submitted comments in opposition to proposed changes to ER 1.6 and ER 5.5 due to concerns about the protection of the public.

- **Petition R-16-0023- Amending Rules (48(e), 58(d), 64(f)(1) and 65**

This petition addresses recommended changes to attorney discipline, clarifies the disability process and changes the reinstatement process utilized by the presiding disciplinary judge in attorney discipline matters.

IV. Potential Issues for ARC in 2016

ARC has identified a number of issues in the attorney discipline and admissions areas that it intends to explore for the upcoming year.

1. Review and provide comments to pending petitions for rule change. In particular:
 - a. R 16-0014: Rules 35(d) and 36(f), Arizona Rules of the Supreme Court changes related to confidentiality of medical and psychological records filed as part of petitions to the Court from attorney admission applicants.
 - b. R 16-0015: Rule 36 (e)(2), proposed change to the manner in which Character and Fitness members participate and attend informal inquiry panels.
2. Review rules relating to bar examination protocols and discuss issues that may arise if the Committee decides not to grade an exam, etc.
3. Submit a final report and recommendation related to the early exam process.
4. Explore issues involving access to justice.