2008 Report on the State Bar of California Discipline System

The State Bar of California
April 2009

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INTRODUCTION

The State Bar of California ("State Bar") has been in existence since 1927 as a non-profit public corporation and acts as the administrative arm of the California Supreme Court in matters involving the admission, regulation and discipline of attorneys.

The State Bar is an integrated bar: all lawyers practicing in California must be active members. As of December 31, 2008, the number of active attorneys in California was approximately 165,474, making the State Bar the largest integrated state bar in the nation. As of that date, there were also approximately 44,741 inactive members of the State Bar.

The State Bar is governed by a Board of Governors, which consists of a president and 22 members. Fifteen board members are lawyers elected by members of the State Bar. The Board of Directors of the California Young Lawyers Association elects a 16th lawyer. Six "public," non-lawyer members are appointed to the Board of Governors – four by California's Governor, one by the Senate Committee on Rules and one by the Speaker of the Assembly.

One of the most important functions of the State Bar is to protect the public, the courts and the legal profession from lawyers who fail to adhere to their professional responsibilities. Most of the 2008 annual membership fee of $400 supports the State Bar's public protection programs. In 2008, General Fund expenditures totaled approximately $62,348,000. Of this amount, approximately $51,805,000 was expended directly on the State Bar's discipline and related regulatory functions.

As the following pages address in more detail, the units of the State Bar that contribute to the important function of discipline, public protection and other related regulatory functions are:

The Office of the Chief Trial Counsel, which receives, investigates and prosecutes complaints against California attorneys;

The State Bar Court, which serves as the administrative arm of the California Supreme Court in the adjudication of disciplinary and regulatory matters involving California attorneys;

The Client Security Fund, which reimburses victims for losses due to attorney theft or acts equivalent to theft;

The Office of Probation, which monitors attorneys who have been ordered to comply with certain conditions relating to State Bar disciplinary matters;

The Office of Mandatory Fee Arbitration, which administers a statewide program for the arbitration of fee disputes between attorneys and their clients;

Professional Competence Programs, which assist the State Bar's ongoing efforts to improve the quality of legal services by maintaining and enhancing the professional standards of California lawyers;

The Office of Special Admissions and Specialization, the Member Services Center, the Access and Fairness Department and the Office of the Secretary, which develop standards for certification and oversight of non-disciplinary regulatory programs relating to the practice of law and administer such programs; and

The General Fund, which is supported by membership fees and provides the resources necessary to operate the State Bar programs and units that further the State Bar's goal of protecting the public.

The State Bar also offers hundreds of classes, seminars and workshops to attorneys annually to help them meet Minimum Continuing Legal Education ("MCLE") requirements, making the State Bar one of the largest MCLE providers in the state.

OFFICE OF THE CHIEF TRIAL COUNSEL

The State Bar Board of Governors, through its Committee on Regulation, Admissions and Discipline Oversight, has oversight responsibility for the State Bar's disciplinary activities. The Chief Trial Counsel, who reports directly to this Board committee pursuant to statute, is responsible for the overall structure, goals and management of the Office of the Chief Trial Counsel ("OCTC"). OCTC's Intake Unit and four Investigation/Trial Units screen, review, analyze, investigate and prosecute allegations of attorney misconduct. OCTC's Audit and Review Unit reviews this work upon request and conducts random audits of OCTC's files.

The Intake Unit

One of the Intake Unit's primary functions is to staff the State Bar's toll-free 1-800 telephone line (1-800-843-9053). Many of the public's initial contacts with the State Bar are made through this 1-800 number. An extensive telephone tree guides callers to information addressing their specific concerns or issues. Callers hear pre-recorded messages and receive answers to their most frequently asked questions. Callers may also order complaint forms without speaking directly to staff.

The telephone tree is available in both English and Spanish. OCTC also has staff available that speak Cantonese, Hungarian, Korean, Mandarin, Russian, Spanish and Tagalog for callers who need assistance in those languages. For callers with spoken or written communication needs in other languages, OCTC provides translation services at no charge.

In 2008, approximately 73,500 calls were received at the 1-800 number. However, telephone calls are no longer the primary indicator of the Intake Unit's workload. The State Bar's web site contains extensive information on the attorney discipline system in California, including a digital attorney complaint form for those who wish to download it. In 2008, 70,110 complaint forms were downloaded.

1-800 Telephone Line: Basic Data					
	2004	**2005**	**2006**	**2007**	**2008**
Total telephone calls received	89,823	70,902	72,916	73,259	73,473*
* Only one-third of the data for May 2008 was captured. As a result, the number of calls in 2008 was greater than 73,473.					

The intake process begins with OCTC's receipt of an inquiry: a written complaint by a client, the court, opposing counsel or other member of the public against a California attorney. The State Bar can also open its own inquiry (called a State Bar Investigation, or "SBI") based upon a news article, a court opinion or any other information obtained or received by the State Bar. The Intake Unit evaluates each inquiry received to determine whether it can be resolved immediately or whether it should remain in the Intake Unit for informal, preliminary investigation and resolution. Resolution entails either advancing the inquiry to an Investigation/Trial Unit or closing the inquiry.

Inquiries (by case number)					
	2004	**2005**	**2006**	**2007**	**2008**
Inquiries opened*	12,383	11,620	11,647	11,739	11,664
* A single inquiry may include more than one State Bar member. There were 13,529 members included in the 11,664 inquiries opened in 2008.					

An inquiry is advanced to an Investigation/Trial Unit if the Intake Unit determines that the inquiry, either on its face or following its preliminary investigation, alleges facts constituting a violation of the Rules of Professional Conduct and/or the State Bar Act and, assuming the allegations contained in the inquiry are true, would likely result in discipline. Each of the allegations of professional misconduct contained in the inquiries received in 2008 fell into one of the following eight areas: duties to clients (e.g., misrepresentations to client, representation of interests adverse to client's interests); duties to the State Bar (e.g., failure to cooperate in State Bar investigation, failure to comply with discipline); fees (e.g., exorbitant or unconscionable fees, division of fees with non-attorneys); handling of funds (e.g., commingling, misappropriation, failure to properly maintain client trust account records); interference with justice (e.g., advising a client to violate the law, disobedience of a court order); performance (e.g., failure to perform, failure to communicate); personal behavior (e.g., commission of a crime, moral turpitude, practice of law while suspended); or professional employment (e.g., improper solicitation, improper advertisements).

Allegation Categories by Percent					
	2004	**2005**	**2006**	**2007**	**2008**
Duties to clients	16%	16%	15%	15%	15%
Duties to State Bar	4%	5%	5%	4%	5%
Fees	12%	11%	11%	13%	14%
Handling of funds	10%	11%	11%	12%	10%
Interference with justice	9%	9%	11%	10%	11%
Performance	35%	37%	34%	35%	34%
Personal behavior	12%	10%	12%	10%	10%
Professional employment	1%	1%	1%	1%	1%
TOTAL	100%	100%	100%	100%	100%

An inquiry is closed in the Intake Unit if it does not allege facts constituting a violation of the Rules of Professional Conduct and/or the State Bar Act or if, assuming the facts contained in the inquiry are true, it would not result in discipline.

In 2008, the Inquiry Unit resolved 13,647 inquiries. 2,802 were advanced to an Investigations/Trial Unit. The bases for the closure of the remaining inquiries are detailed on the following page in the table entitled, "Closed Inquiries – Dispositions."

Inquiries (by member) – Dispositions					
	2004	**2005**	**2006**	**2007**	**2008**
Inquiries advanced to investigation	3,770	3,196	3,151	3,010	2,802
Inquiries closed	10,477	9,962	11,079	10,647	10,845
TOTAL	14,247	13,158	14,230	13,657	13,647

The Intake Unit strives to resolve every opened inquiry within 60 days of its receipt. Therefore, many inquiries opened in late 2007 were resolved in early 2008. As a result, the number of inquiries resolved in any given year does not necessarily equal, and could potentially be greater than, the number of inquiries opened that year. For example, the Intake Unit resolved 13,647 inquiries in 2008 and opened 13,529 inquiries that same year.

Closed Inquiries (by member) – Dispositions					
	2004	**2005**	**2006**	**2007**	**2008**
Alternative Dispute Resolution	149	119	72	44	41
Complainant's failure to cooperate	401	258	276	290	476
Criminal conviction complaint*	944	905	932	1,031	725
Disbarred in separate matter	41	30	39	44	59
Duplicate complaint	77	56	81	76	53
Fee arbitration matter†	464	535	484	471	341
Insufficient facts/evidence	6,356	5,968	6,693	6,604	7,330
Lack of OCTC jurisdiction	151	136	78	64	77
Matter resolved between complainant and attorney	280	198	192	151	149
Resigned with charges pending	267	283	347	265	114
Other	1,347	1,474	1,885‡	1,607	1,480
TOTAL	10,477	9,962	11,079	10,647	10,845

* In the case of a criminal conviction complaint where an attorney is charged with a felony or misdemeanor, the Intake Unit closes the inquiry and opens a new case in which the criminal case is monitored. If the attorney is ultimately convicted of a felony, of a misdemeanor involving moral turpitude or of any other misconduct affecting the practice of law, the Intake Unit refers the conviction to the State Bar Court pursuant to Bus. & Prof. Code § 6101. See the table below entitled "Criminal Case Monitoring Activity" and accompanying text for more information.

† In the case of a fee arbitration complaint, the Intake Unit closes the inquiry and refers the complainant to the Office of Mandatory Fee Arbitration. See the Office of Mandatory Fee Arbitration data and accompanying text included in this Annual Report below.

‡ This number reflects an adjustment made based on reopened inquiries and the timing of the entry of this data into OCTC's database.

Under the Business and Professions Code, courts and insurers must report specified types of conduct by attorneys to the State Bar, financial institutions must report insufficient fund activity in client trust accounts to the State Bar and attorneys are required to self-report certain actions to the State Bar.

Specifically, sections 6086.7 and 6086.8(a) of the Business and Professions Code require courts to notify the State Bar of:

- A final order of contempt imposed against an attorney under specified circumstances;
- Any modification or reversal of a judgment in a judicial proceeding that is based in whole or in part on the misconduct, incompetent representation or willful misrepresentation of an attorney;
- The imposition of judicial sanctions against an attorney under specified circumstances;
- The imposition of specified civil penalties upon an attorney; and
- Any judgment against an attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty or gross negligence committed in a professional capacity.

Section 6086.8(b) of the Business and Professions Code requires insurers or licensed surplus brokers providing professional liability insurance to notify the State Bar of every claim or action for damages based upon fraud, misrepresentation, breach of fiduciary duty or negligence committed in a professional capacity against an attorney who the insurer or licensed surplus broker insures.

Section 6091.1 of the Business and Professions Code requires any financial institution, including any branch, that is a depository for attorney trust accounts to report to the State Bar any instance of insufficient funds presented against an attorney's client trust account, regardless of whether the instrument is honored.

Section 6086.8(c) of the Business and Professions Code requires attorneys who do not possess professional liability insurance to report to the State Bar any settlement, judgment or arbitration award regarding every claim or action for damages against the attorney for fraud, misrepresentation, breach of fiduciary duty or negligence committed in a professional capacity.

And section 6068(o) of the Business and Professions Code states that it is the duty of an attorney to report to the State Bar:

- The filing of three or more lawsuits against the attorney in a 12-month period for malpractice or other wrongful conduct committed in a professional capacity;
- Any entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty or gross negligence committed in a professional capacity;
- The imposition of judicial sanctions against the attorney under specified circumstances;
- Any indictment or information charging a felony against the attorney;
- Any conviction of the attorney of a felony or of a specified misdemeanor;
- The imposition of discipline against the attorney by any professional or occupational disciplinary agency or licensing board; and
- Any reversal of judgment in a proceeding based in whole or in part upon the attorney's misconduct, grossly incompetent representation or willful misrepresentation.

The Intake Unit evaluates all of these statutorily mandated reports, or "reportable actions." In 2008, the Intake Unit received 2,343 reportable actions.

Reportable Actions – Received					
	2004	**2005**	**2006**	**2007**	**2008**
Banks	2,651	1,946	1,811	2,617	1,979
Courts	120	102	134	113	98
Insurers	214	153	152	105	103
Self reports by attorneys	87	70	83	94	149
Other	*	*	*	*	14*
TOTAL	3,072	2,271	2,180	2,929	2,343
* The tracking of Reportable Actions received by other sources, including opposing counsel, began in March 2008.					

If a reportable action warrants State Bar action or if the attorney fails to satisfactorily respond to the Intake Unit's letter to him or her regarding the violation alleged in the reportable action, the inquiry is advanced to an Investigation/Trial Unit.

Inquiries and Reportable Actions – Advanced to Investigation/Trial Unit					
	2004	**2005**	**2006**	**2007**	**2008**
Inquiries advanced to investigation	3,770	3,196	3,151	3,010	2,802
Reportable actions advanced to investigation	508	333	403	558	475
TOTAL	4,278	3,529	3,554	3,568	3,277

Under Business and Professions Code section 6101, district attorneys, city attorneys and other prosecuting agencies are required to inform the State Bar if an attorney is charged with a felony or misdemeanor. Upon receipt of such information, the Intake Unit opens a new case in which the Unit monitors the criminal matter to final disposition and, if the attorney is ultimately convicted of a felony, of a misdemeanor involving moral turpitude or of any other misconduct affecting the practice of law, the Intake Unit refers the matter to the State Bar Court. The State Bar Court may issue an order placing the attorney on interim suspension, refer the matter to the State Bar Court's hearing department for hearing on specified issues or recommend to the California Supreme Court that the attorney be summarily disbarred. In 2008, OCTC received 293 new criminal cases for monitoring by the Intake Unit.

Criminal Case Monitoring Activity					
	2004	**2005**	**2006**	**2007**	**2008**
Received during reporting period	368	283	285	266	293
Closed during reporting period*	304	263	310	277	242
Pending at reporting period end	348	362	341	333	402
Convictions referred to State Bar Court	74	92	102	130	90

* Criminal cases are closed if: the attorney is acquitted; the charges against the attorney are dismissed; the attorney receives an alternative to sentencing (for example, the court orders the attorney to participate in a diversion program); the attorney is not convicted of a felony or of specified misdemeanors; or the attorney resigns or is disbarred in a separate matter.

Investigation/Trial Units

Professional investigators in the Investigation/Trial Units receive and investigate inquiries and reportable actions forwarded from the Intake Unit.

At the conclusion of each investigation, an attorney in the Unit decides whether to close the complaint or otherwise resolve the complaint, for example, through the imposition of an informal, confidential resolution; the filing of a stipulation; or the filing of a notice of disciplinary charges. (See Glossary for definitions of each of these disposition types.)

OCTC – Dispositions					
	2004	**2005**	**2006**	**2007**	**2008**
Warning letter	331	286	232	131	247
Resource letter	16	30	23	9	35
Agreement in lieu of discipline	42	39	25	28	32
Dismissal	3,051	2,660	2,015	1,784	2,115
Termination	568	300	429	187	155
Resignation tendered with charges pending	82	63	84	93	63
Stipulation filed*	217	168	136	99	115‡
Notice of disciplinary charges ("NDC") filed†	405	347	369	319	369‡

* These numbers include only those stipulations filed prior to OCTC's filing of a notice of disciplinary charges ("NDC").

† OCTC receives and files NDCs in various types of disciplinary matters. See the table below entitled, "Other Litigation Matters Received" and accompanying text for a description of each of these types of matters, as well as information on regulatory matters received by OCTC. See also the State Bar Court data included in this Annual Report for information on disciplinary and regulatory matters filed by OCTC.

‡ Stipulations and NDCs may contain one or more complaints against the same attorney. The 115 pre-NDC stipulations filed in 2008 contained 155 complaints; the 369 NDCs filed in 2008 contained 660 complaints.

The Investigation/Trial Units strive to complete investigations within 6 months or, in the case of investigations designated as complex, within 12 months after receipt of the complaint. Cases that have not been closed or resolved within that time period are statutorily defined as backlog cases. The statutory backlog at the end of 2008 was 290 cases.

Open Complaints at Year's End					
	2004	**2005**	**2006**	**2007**	**2008**
Open 6 months or less	1,316	1,019	1,247	1,371	1,158
Open more than 6 months	370	389	323	525	446
- Open more than 6 months but not more than 9 months	156	178	173	257	143
- Open more than 9 months but not more than 12 months	77	93	59	122	103
- Open more than 13 months but not more than 21 months	71	91	66	118	141
- Open more than 21 months	66	27	25	28	59
Total Open	1,686	1,408	1,570	1,896	1,604
"Backlog" by statutory definition	402	315	246	327	290*
Average pendency of open investigations	163 days	169 days	151 days	165 days	184 days
Average pendency of closed investigations at time of closure	197 days	190 days	187 days	186 days	187 days

* This number does not include 21 cases in which a Special Deputy Trial Counsel – an active member of the State Bar who is not an employee of the State Bar, a member of the Board of Governors or a Judge Pro Tempore of the State Bar Court – was appointed to act entirely in the Chief Trial Counsel's place or stead as required by rule 2201 of the State Bar of California Rules of Procedure.

The Investigation/Trial Units also take matters worthy of prosecution to trial. Much of the Units' trial work is reflected in the State Bar Court data included in this Annual Report.

In addition to Original matters (i.e., proceedings initiated by OCTC to determine whether an attorney is culpable of violating the Rules of Professional Conduct and/or the State Bar Act and to assess and recommend the appropriate level of discipline), litigation matters handled by the Investigative/Trial Units include other disciplinary and regulatory matters. Data on the number of disciplinary and regulatory matters received by OCTC is detailed in the following charts.

Other Disciplinary Matters Received*					
	2004	**2005**	**2006**	**2007**	**2008**
Rule 1-110 violation matters	18	31	18	27	33
Other jurisdiction matters	16	38	26	19	25
Rule 9.20 violation matters†	76	63	45	54	43

* This table refers to the number of disciplinary matters other than original matters received by OCTC. The State Bar Court data included in this Annual Report lists the number of other disciplinary matters filed by OCTC. See Glossary for definitions for each of these disciplinary matters.

† Prior to January 1, 2007, rule 9.20 was numbered rule 955 and these matters were referred to as Rule 955 violation matters.

Other Regulatory Matters Received*					
	2004	**2005**	**2006**	**2007**	**2008**
Moral character matters	11	13	13	10	19
Reinstatement matters	18	18	10	11	8
Inactive enrollment matters pursuant to Bus. & Prof. Code § 6007(b)(1)	1	0	1	1	2
Inactive enrollment matters pursuant to Bus. & Prof. Code § 6007(b)(2)	0	4	11	1	0
Inactive enrollment matters pursuant to Bus. & Prof. Code § 6007(b)(3)	14	2	5	5	9
Inactive enrollment matters pursuant to Bus. & Prof. Code § 6007(c)	2	3	6	2	0
Return to active status matters pursuant to Bus. & Prof. Code §§ 6007(b)(2) & (b)(3)	3	3	2	2	0
Relief from actual suspension matters	17	15	7	8	9
TOTAL	176	190	144	140	148

* This table refers to the number of regulatory matters received by OCTC. The State Bar Court data included in this Annual Report lists the number of regulatory matters filed by OCTC. See Glossary for definitions for each of these regulatory matters.

The Investigative/Trial Units also handle 6180/6190 cases, conducted pursuant to Business and Professions Code sections 6180 and 6190. Section 6180 permits the State Bar to petition the state courts to assume jurisdiction over an attorney's law practice where the attorney has died, resigned, become an inactive member of the State Bar, been disbarred or been suspended. Section 6190 permits the State Bar to petition the state courts to assume jurisdiction over an attorney's law practice if the attorney has become incapable of devoting adequate time and attention to, and of providing the quality of service for, his or her law practice which is necessary to protect the interests of a client and if there is an unfinished client matter for which no other active member of the State Bar has agreed to assume responsibility. In 2008, OCTC opened 21 6180/6190 cases, successfully petitioned the state courts to assume jurisdiction of 10 abandoned law practices and recovered 1,569 client files.

6180/6190 Cases					
	2004	**2005**	**2006**	**2007**	**2008**
Cases Opened	31	33	35	27	21
Petitions granted	14	16	24	15	10
Client files recovered*	13,626	10,531	6,215	6,184	1,569
* The number of client files recovered does not include files that were seized by independent attorneys and that are not housed at the State Bar.					

In 2006, OCTC also began implementation of Business and Professions Code section 6126.3 (effective January 1, 2006), which permits the State Bar to apply to a superior court to intervene in and assume jurisdiction over the practice of any non-attorney engaged in the unauthorized practice of law. Section 6126.3(e) sets forth the actions that the State Bar may take in the event that the court grants such a petition. The Investigative/Trial Units also handle these actions, which include shutting down the practices, seizing files and returning files to persons and entities that appear to be clients of the non-attorney.

6126.3 Cases			
	2006*	**2007**	**2008**
Cases Opened	148	155	132
Petitions granted	10	6	11
Client files recovered	6,571	2,270	4,861
* The tracking of section 6126.3 cases began in March 2006.			

Lawyers Assistance Program and Alternative Discipline Program

Experience has shown that attorneys in the discipline system who participate in a structured recovery program such as the State Bar's Lawyers Assistance Program ("LAP") are honoring their obligations to their clients and to the profession. OCTC urges all impaired attorneys to avail themselves of LAP's services. Participating attorneys are paying restitution to their clients and completing ethics education; furthermore, there has been no recidivism to date among the attorneys who have successfully completed LAP. To foster better understanding between OCTC and LAP, select OCTC attorneys attend all LAP Oversight Committee meetings and provide information about OCTC's policies and procedures to the LAP staff at in-service trainings.

Attorneys with substance abuse or mental health issues who are facing disciplinary charges may be referred to the Alternative Discipline Program ("ADP"). ADP cases are handled by the Investigation/Trial Units with the dual objectives of public protection and rehabilitation. Since the implementation of ADP over five years ago, OCTC no longer resolves discipline cases involving an impaired attorney allowed to continue to practice law without factoring testing, monitoring and treatment of the attorney into the resolution. Although participation in LAP is voluntary on the part of respondents, a respondent must be accepted into LAP in order to be eligible for ADP.

Alternative Discipline Program					
	2004	**2005**	**2006**	**2007**	**2008**
Attorneys referred to the ADP	64	56	82	89	63
Attorneys evaluated for the program	68	73	97	103	74
Stipulations/contracts entered into by attorneys	32	50	48	43	57

Audit and Review Unit

In August of 2004, OCTC created a unit called Audit and Review to handle requests from complainants for review of a decision by OCTC to close his or her complaint without disciplinary action. The Audit and Review Unit resolved 1,307 requests for review in 2008.

Audit and Review Unit – Requests for Review				
	2005	**2006**	**2007**	**2008**
Received during reporting period	1,071	1,187	1,270	1,486
Resolved during reporting period	1,095	1,429	1,609	1,307
Pending at reporting period end	744	502	163	342

The detailed breakdown of the cases resolved by the Audit and Review Unit is as follows.

Audit and Review Unit – Dispositions				
	2005	**2006**	**2007**	**2008**
Reopen request denied	897	1,300	1,411	1,194
Reopen request granted	54	88	96	59
Warning letter sent to attorney	14	9	11	5
Other*	130	32	91	49
TOTAL	1,095	1,429	1,609	1,307

* These include responses to complainants who sought additional review after the Audit and Review Unit had denied their requests for review and communications determined not to be requests for review.

Audit and Review also conducts random audits of OCTC's files twice a year and engages in other specifically designated audit and quality assurance measures. Having this specialized unit has helped OCTC standardize its audit procedures, achieve greater uniformity in its results and provide an additional degree of independence to its audit function.

Ethics School and Client Trust Accounting School

Disciplined attorneys are required to attend a day-long course in ethics covering the Rules of Professional Conduct and selected provisions of the State Bar Act. The course identifies issues and solutions to common ethical situations faced by practitioners. Instructors are experienced prosecutors who interact with the attorneys in the class, discussing such topics as the attorney-client relationship, fees and fee agreements, the scope of employment, performing competently and duties to clients during and upon ending the attorney-client relationship. A separate three-hour course that focuses specifically on managing client trust accounts and related duties also is offered. This course, called Client Trust Accounting School, is required of attorneys who are disciplined for client trust account violations. In recent years, both courses have been made available to members who have not been disciplined for the purpose of assisting them in avoiding common ethical and client trust accounting mistakes. During 2008, OCTC offered 12 courses of Ethics School and 11 courses of Client Trust Accounting School. 228 attorneys completed Ethics School and 71 attorneys completed Client Trust Accounting School. OCTC attorneys teach these courses.

Significant Trends in 2008

Backlog reduced to 290 cases. In 2008, the backlog decreased from 327 cases at the end of 2007 to 290 cases at the end of 2008. Unlike the year-end figure for 2007, the year-end figure for 2008 does not include cases in which a Special Deputy Trial Counsel – an active member of the State Bar who is not an employee of the State Bar, a member of the Board of Governors or a Judge Pro Tempore of the State Bar Court – was appointed to act entirely in the Chief Trial Counsel's place or stead as required by rule 2201 of the State Bar of California Rules of Procedure. Even if those 21 cases were included in the 2008 year-end backlog figure, however, the year-end backlog in 2008 is still less than that of 2007.

Increase in Filing of Notices of Disciplinary Charges. In 2008, OCTC filed 369 Notices of Disciplinary Charges (NDCs) containing 660 matters in the State Bar Court. Compared to 2007, this is a 15.7% increase in the number of NDCs filed and a 21.8% increase in the number of matters contained in those NDCs.

Modifications to the Alternative Discipline Program. In 2008, the State Bar Board of Governors approved OCTC's proposal for significant modifications to the State Bar Court's Alternative Discipline Program (ADP), including but not limited to (a) adopting eligibility criteria for acceptance into the ADP; (b) making hearing judge decisions appealable by the Office of the Chief Trial Counsel and (c) making stipulations as to facts and conclusions of law public upon the respondent's acceptance into the ADP, instead of his or her successful completion or termination from the ADP. The modifications, which substantially increased the public protection aspects of the ADP, became effective on July 1, 2008.

Posting of Notices of Disciplinary Charges On-Line. In 2008, the Board of Governors approved OCTC's proposal for the posting of Notices of Disciplinary Charges on the State Bar's website. California is the first attorney discipline jurisdiction to take this very important public protection measure.

STATE BAR COURT

The State Bar Court serves as the administrative arm of the California Supreme Court in the adjudication of disciplinary and regulatory matters involving California attorneys. It is the mission of the State Bar Court to hear and decide cases fairly, correctly and efficiently for the protection of the public, the courts and the legal profession. In 2008, the State Bar Court started its 20th year as the nation's first full-time attorney disciplinary and regulatory court.

The State Bar Court has authority to impose public and private reprovals upon California attorneys who are found to have violated the disciplinary provisions of the California State Bar Act or the Rules of Professional Conduct approved by the California Supreme Court. In cases involving the imposition of more serious degrees of discipline, such as disbarment or suspension, the State Bar Court makes findings of fact, conclusions of law and a recommendation for discipline, all of which are transmitted to the California Supreme Court for review and adoption. In the vast majority of cases, the Supreme Court accepts and imposes the State Bar Court's recommendation. However, the Supreme Court may, in its discretion, modify the State Bar Court's factual findings, legal conclusions or recommended discipline or, in the alternative, return the matter to the State Bar Court for further hearing or other action.

The State Bar Court has two venues (San Francisco and Los Angeles) and is composed of two departments – the hearing department and the review department. The hearing department is the trial level of the State Bar Court and is comprised of five full-time judges (three in Los Angeles and two in San Francisco). The Supreme Court appoints two of the hearing judges. The Governor, the Speaker of the Assembly and the Senate Committee on Rules each appoint one hearing judge.

The review department is the appellate level of the State Bar Court. The three-member review department consists of the Presiding Judge and two part-time review judges. The Supreme Court appoints all of the judges of the review department.

In 2008 one new review judge took the bench. In November, Catherine D. Purcell, who was appointed by the Supreme Court, was sworn in as review Judge in San Francisco. Her term will expire in 2014.

Significant Trends in 2008

State Bar Court trends that occurred in 2008 included:

1) Filings in the State Bar Court in 2008 were comparable with 2007 filings: 714 in 2007 and 734 in 2008 (a 2% increase).

2) The State Bar Court closed approximately 80% of the number of cases as were filed. This is an increase from 2007, but down from the court's goal of a 100% case closure rate. The two main reasons for the decrease in case closures revolve around the number of cases entering the Alternative Discipline Program, and the change in the process for handling resignations with charges pending. Prior to 2007, the State Bar Court forwarded resignations that were tendered by attorneys who had disciplinary matters pending directly to the Supreme Court. In 2007, the process of handling these matters was modified, requiring the Board of Governors to recommend to the Supreme Court whether these resignations should be accepted or not. This modification in the process has slowed the closing of these matters.

3) The average pendency of open cases in the State Bar Court hearing department decreased from 10 months in 2007 to 8.5 months in 2008.

4) The rules for participation in the Alternative Discipline Program ("ADP") were amended in 2008 and became effective July 1.

5) The State Bar Court began posting case dockets online. The docket for any particular case can be found at: http://apps.statebarcourt.ca.gov/dockets/dockets.aspx

6) The State Bar Court continued publication of the *California State Bar Court Reporter* containing the published opinions of the review department in attorney disciplinary and regulatory proceedings.

The following charts provide a detailed look at the number and kinds of cases in the State Bar Court in 2008 and previous years.

Cases Filed and Closed in The State Bar Court

The following charts reflect the number of cases filed and the number of cases closed in the State Bar Court during 2008 as compared to previous years.

Cases Filed in the State Bar Court: Summary Figures										
	2004		2005		2006		2007		2008	
	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Disciplinary Matters	750	706	633	630	639	611	561	435	610	469
Regulatory Matters	161	155	138	139	164	167	153	105	124	123
TOTAL	911	861	771	869	803	778	714	540	734	592

Detailed figures are provided on the following page.

Cases Filed and Closed in The State Bar Court: Detailed Figures

Cases Filed And Closed – Disciplinary Matters*										
	2004		2005		2006		2007		2008	
Case Type	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Original matter	538	515	427	442	431	382	350	298	427	308
Conviction referral	92	71	93	75	104	104	134	76	98	79
Rule 9.20 violation	52	48	45	48	41	43	38	34	25	37
Rule 1-110 violation	15	14	20	9	20	29	14	10	21	13
Probation revocation	36	42	25	35	26	33	6	8	21	10
Other jurisdiction	17	16	23	21	17	20	19	9	14	18
Pre-filing matters†	--	--	--	--	--	--	--	--	4	4
TOTAL	750	706	633	630	639	611	561	435	610	469

* See Glossary for definitions for each of these disciplinary matters.

† Pre-filing matters were previously tracked manually. Starting in 2008, the State Bar Court has initiated reporting on these case types.

Cases Filed And Closed – Regulatory Matters*										
	2004		2005		2006		2007		2008	
Case Type	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed	Filed	Closed
Arbitration enforcement	15	13	12	18	23	21	12	10	9	13
Resignation with charges pending	82	74	64	65	81	81	94	51	63	60
Inactive enrollment	13	16	13	9	19	19	12	10	10	12
Interim remedies	0	0	0	0	1	1	0	0	0	0
Return to active (Bus. & Prof. Code)†	3	4	3	1	2	4	3	1	1	3
Return to active (arbitration enforcement)‡	1	1	0	0	8	6	2	4	4	4
Relief from actual suspension	17	15	15	14	7	9	8	11	9	6
Reinstatement	18	21	18	18	10	13	11	7	8	12
Moral character	11	11	13	12	13	13	10	10	19	13
Legal specialization	1	0	0	2	0	0	1	1	1	0
TOTAL	161	155	138	139	164	167	153	105	124	123

* See Glossary for definitions for each of these regulatory matters.

† Matters in which an attorney was returned to active status after the attorney was involuntarily enrolled inactive based on the attorney's violation of the Business and Professions Code.

‡ Matters in which an attorney was returned to active status after the attorney was involuntarily enrolled inactive based on the attorney's failure to comply with a Mandatory Fee Arbitration award.

Dispositions Of Case Closures Of State Bar Court Cases

Dispositions of Closed Disciplinary Cases*					
	2004	2005	2006	2007	2008
Disbarment	60	51	66	55	57
Summary disbarment	7	7	5	11	6
Suspension	287	261	250	170	245
Reprovals	169	144	96	95	67
Dismissal	55	45	58	34	37
Termination	102	97	116	64	46
Revoke probation	21	24	20	4	7
Probation	2	0	0	0	0
Extend probation	1	1	0	2	0
License to practice cancelled	0	0	0	0	1
Admonition	0	0	0	0	1
Deny petition/application to revoke probation	2	0	0	0	2
TOTAL	706	630	611	435	469

* See Glossary for definitions for each of these disciplinary dispositions.

Dispositions of Closed Regulatory Cases*					
	2004	2005	2006	2007	2008
Relief from actual suspension granted	9	7	3	3	1
Relief from actual suspension declined	2	4	5	5	0
Transfer to inactive status†	18	12	26	8	19
Decline transfer to inactive†	1	0	5	2	1
Decline re-transfer to active†	0	0	0	0	1
Grant petition for reinstatement/admission application	6	7	4	2	5
Deny petition for reinstatement/admission application	10	8	6	8	9
Restrict practice	0	0	1	0	0
Return to active status†	4	2	6	5	7
Resignation with charges pending	74	64	79	46	38
Deny resignation with charges pending‡	--	--	--	--	19
Dismissal	14	11	12	14	7
Termination	2	1	4	4	1
Withdrawn	15	23	16	8	15
TOTAL	155	139	167	105	123

* See Glossary for definitions for each of these regulatory dispositions.

† A regulatory case may result in an order placing an attorney on inactive status based upon either the attorney's violation of the Business and Professions Code or the attorney's failure to comply with a Mandatory Fee Arbitration award.

‡ 2008 was the first year the State Bar Court started tracking denied requests to resign with charges pending.

Significant State Bar Court Orders Affecting Practice

The State Bar Court issues various orders that affect the ability of an attorney to practice law (e.g., interim suspension upon conviction of certain crimes, transfer to inactive enrollment upon entry of default, recommendation of disbarment), or that relate to the powers of the Supreme Court that have been delegated to the State Bar Court (e.g., modify probation conditions, extend the time for compliance with the Multistate Professional Responsibility Examination).

Also, each case that is considered for participation in the State Bar Court's Alternative Discipline Program requires a written decision. Those decisions do not become final until the respondent either successfully completes the Alternative Discipline Program or is terminated from the Alternative Discipline Program. Those decisions are reflected here as interim dispositions.

Significant Orders Affecting Practice: Summary Figures					
	2004	2005	2006	2007	2008
Disciplinary matters	545	625	652	692	745
Regulatory matters	1	1	2	3	6
TOTAL	546	626	654	695	751

Significant State Bar Court Orders Affecting Practice: Detailed Figures

Significant Orders in Disciplinary Matters*					
	2004	2005	2006	2007	2008
Conviction orders	78	86	103	145	108
Interim suspension orders†	58	64	75	91	88
Professional Responsibility Examination orders	54	86	83	68	57
Suspension orders – Bus. & Prof. Code § 6007‡ or § 6233§	181	197	218	209	282
Modification orders	72	62	64	64	59
Alternative Discipline Program decisions**	64	75	99	81	123
Rejected stipulations	16	19	1	15	3
Extend Probation	10	12	7	3	10
Vacate Previous Order	11	16	0	4	12
Early Termination of Probation	0	8	0	1	0
Miscellaneous††	1	0	2	11	3
TOTAL	545	625	652	692	745

* See Glossary for definitions for each of these disciplinary orders.

† This category includes orders of interim suspension as well as orders lifting interim suspension

‡ These orders differ from the category of Suspensions in the "Dispositions of Closed Disciplinary Cases" section of this report. In those matters, inactive enrollment is the final disposition. In this category, inactive enrollment occurs prior to the final disposition. This category also includes orders lifting the inactive enrollment. Effective 2002, most of these items were re-categorized as Interim Dispositions.

§ Effective 2006, Bus. & Prof. Code § 6233 allows State Bar Court judges to enroll attorneys in the Alternative Discipline Program involuntarily inactive.

** Alternative Discipline Program decisions were not tracked prior to 2004.

†† This category includes denials of requests for interlocutory review, extensions of conditions of reprovals, and reversal orders.

Significant Orders in Regulatory Matters*					
	2004	2005	2006	2007	2008
Modification order	1	0	2	0	0
Inactive enrollment orders†	0	0	0	0	1
Vacate Submission	0	1	0	3	5
TOTAL	1	1	2	3	6

* See Glossary for definitions for each of these regulatory orders.

† These orders may be issued pursuant to Bus. & Prof. Code § 6007.

California Supreme Court Jurisdiction and Dispositions

The Supreme Court has final jurisdiction over all matters relating to attorney discipline and regulation. Generally, the Supreme Court accepts the recommendations of the State Bar Court regarding these matters. On occasion, however, the Supreme Court will remand a case or grant a petition for writ of review, as shown below:

California Supreme Court Interim Dispositions					
	2004	2005	2006	2007	2008
Grant Writ of Review	2	1	0	0	0
Remand for Hearing	0	3	1	0	0
TOTAL	2	4	1	0	0

Lawyers Assistance Program and Alternative Discipline Program

Effective January 1, 2002, Business and Professions Code sections 6230, *et seq.*, were added to the State Bar Act. Section 6231 directs the Board of Governors of the State Bar of California to establish and administer an Attorney Diversion and Assistance Program ("the Lawyer Assistance Program" or "LAP"). Additionally, section 6140.9 provides that the State Bar shall allocate at least $10.00 of the annual membership fee paid by active members of the State Bar to offset all or a portion of the cost of establishing and administering the Lawyer Assistance Program. The State Bar has implemented the Lawyer Assistance Program, which primarily addresses the substance abuse and mental health problems of attorneys who are referred to LAP or who voluntarily seek to participate in LAP. LAP offers support and structure to attorneys recovering from these disorders. Experts provide consultations regarding rehabilitation and private support groups are offered to attorneys in LAP. The State Bar Court's Alternative Discipline Program ("ADP") addresses the substance abuse and mental health problems of attorneys against whom formal disciplinary proceedings have been initiated in the State Bar Court ("respondents").

ADP represents the first comprehensive program in the United States for addressing the identification, assessment and treatment of substance abuse and mental health problems of respondents in the discipline process. ADP is designed to protect the public, the courts and the legal profession, while respondents with substance abuse or mental health problems receive assistance with rehabilitation. ADP has a close and mutually beneficial relationship with LAP. ADP neither duplicates the LAP processes nor usurps its clinical function. ADP seeks to identify and refer respondents with substance abuse or mental health problems to LAP so that respondents so afflicted may be treated and rehabilitated. A respondent must be accepted into LAP in order to be eligible for ADP.

Cognizant of its public protection responsibilities, the State Bar Court retains jurisdiction over those attorneys in LAP that have pending disciplinary proceedings and makes all appropriate judicial decisions, including any determination regarding the respondent's eligibility to practice law while participating in the ADP.

Commencing in 2002, the State Bar Court implemented a system for handling cases associated with ADP. Three stages were developed for categorizing these cases, the first being the referral stage. In a State Bar Court proceeding, when an issue of substance abuse or mental health is raised, the assigned hearing judge may refer the matter to an ADP judge who presides over ADP in the appropriate venue. This referral is solely for the purpose of determining whether the respondent is a potential candidate for the program.

The second stage, the evaluation stage, is estimated to take approximately 90 days. During the evaluation stage, LAP meets the respondent. The respondent must sign the LAP Participation Plan, which is provided to the State Bar Court. The agreement, along with other evidence, is used to establish a nexus between the respondent's misconduct and his or her substance abuse or mental health issue. Also, during the evaluation process, the respondent and the Office of the Chief Trial Counsel submit a stipulation as to facts and conclusions of law, which becomes binding on the parties once the attorney is formally accepted into ADP.

In the third stage, if the respondent is determined to be a good candidate for ADP, the assigned hearing judge presiding over the matter prepares a decision stating the high and low levels of discipline. The low level of discipline is the recommended level of discipline to be imposed should the respondent successfully complete ADP, and the high level of discipline is the level to be imposed if the respondent is terminated from the program. The respondent also signs a contract, which details the conditions of the respondent's participation in ADP.

ADP provides oversight of its participants through status conferences held, at a minimum, every three months. In order to determine the respondent's progress, LAP provides written status reports to the ADP Judge upon request. Based on objective data, the reports: (1) confirm the respondent's compliance with the terms and conditions of the LAP Participation Plan, (2) disclose any incidents of non-compliance, and (3) provide any relevant case information which can be appropriately shared with the ADP Judge in open court.

The respondent is required to participate for a minimum term of 36 months from formal admission into ADP. However, with earned incentives, the respondent may complete ADP in a minimum of 18 months. No respondent may complete ADP without a one-year substance-free certificate from LAP, or a recommendation from a mental health professional. It should be noted that probationary conditions may extend beyond the formal ADP term, thereby requiring continued compliance with the respondent's LAP Participation Plan.

The following charts display the participation levels in ADP for the last 5 years and appear to demonstrate that participation in this program is leveling off:

Number of Cases Entering Each ADP Stage During Year					
Participation Level	**2004**	**2005**	**2006**	**2007**	**2008**
Referral	91	87	95	116	64
Evaluation	104	117	116	138	104
Full Participation	72	92	110	76	114

Cases/Respondents fully participating in ADP at end of year					
	2004	**2005**	**2006**	**2007**	**2008**
Cases	110	180	249	246	307
Respondents*	53	90	116	127	154
* Many of the cases in ADP are consolidated matters. Many respondents have more than one case in ADP.					

CLIENT SECURITY FUND

The Client Security Fund is a public service of the California legal profession. In 1972, the State Bar sponsored the creation of this Fund to help protect consumers of legal services by relieving or mitigating pecuniary losses caused by the dishonest conduct of California lawyers arising from or connected with the practice of law. In 2006, the Fund's coverage was expanded to include Foreign Legal Consultants registered with the State Bar and lawyers registered with the State Bar under the Multijurisdictional Practice Program.

The Fund works closely with the Office of the Chief Trial Counsel in protecting California's legal consumers. Since its inception in 1972, the Fund has reimbursed applicants over $89.6 million. The Fund may reimburse an individual victim for losses of up to $50,000 due to theft or an act equivalent to theft committed by his or her lawyer.

To qualify for reimbursement, an applicant must be able to show that the money or property actually came into the lawyer's possession and that the loss was caused by the lawyer's dishonest conduct.

The types of dishonest conduct that may lead to reimbursement from the Fund are:

- Theft or embezzlement of money or the wrongful taking or conversion of money or property;
- Refusal to refund unearned fees paid to the lawyer in advance where the lawyer performed no services whatever, or an insignificant portion of the services the lawyer agreed to perform;
- The borrowing of money from a client without the intention or reasonably anticipated ability to repay the money;
- Obtaining money or property from a client by representing that it would be used for investment purposes when no investment is made; and
- An act of dishonesty or deceit that directly leads to the loss of money or property that actually came into the lawyer's possession.

In 2008, the Fund received 825 new applications and processed 902 to closure. Of the 902 claims processed, $4,638,272 was paid on 479 approved claims.

The chart below reflects the activity of the Fund from 2004 to 2008:

Client Security Fund					
	2004	**2005**	**2006**	**2007**	**Unaudited 2008**
New applications filed	1,321	1,318	1,314	1,013	825
Dollar amount requested in new applications	$13,681,482	$11,558,645	$11,975,249	$10,764,876	$11,290,084
Number of applications paid	746	982	943	607	479
Dollar amount paid	$5,681,455	$4,648,584	$5,299,061	$4,352,110	$4,638,272
Number of applications closed (paid/denied/terminated)	1,209	1,386	1,302	1,023	902
Dollar amount requested in all processed applications	$12,383,336	$11,209,108	$11,975,249	$10,764,876	$11,337,183

The Fund is primarily financed by an annual assessment added to the membership dues paid by California lawyers (currently $40 per active member and $10 per inactive member). These assessments are applied only for

the purposes of Fund payments and costs associated with the Fund's administration. The Fund is a cost-effective way of providing victims with reimbursement that is generally not available from any other source. Furthermore, the Fund provides the legal profession with a unique opportunity to promote public confidence in the administration of justice and the integrity of the profession.

Section 6140.5 of the Business and Professions Code requires the Board of Governors to maintain a Client Security Fund. The operation of the Fund is currently governed by the Rules of Procedure, Client Security Fund Matters, adopted by the Board in 1985. Under these Rules, the Board must appoint a seven-member Commission to act as the Board's delegate in administering the Fund. The Rules set forth the scope and purpose of the Fund, the authority of the Commission, the requirements for reimbursement, the application process and the confidentiality of Fund records. A Fund Applicant or Respondent lawyer may seek judicial review of a Commission decision in the superior courts of the State under section 1094.5 of the Code of Civil Procedure.

OFFICE OF PROBATION

In the significant majority of cases, attorneys against whom discipline other than disbarment is imposed, are placed on probation by the California Supreme Court or by the State Bar Court. During the period of probation, which typically ranges from one to five years, the disciplined attorney is required to comply with specified probation conditions appropriate to his or her misconduct, for example: (a) submitting written quarterly probation reports attesting to the attorney's compliance with the State Bar Act, Rules of Professional Conduct, and specified probation conditions; (b) promptly responding to State Bar inquiries about the attorney's probation compliance; (c) returning misappropriated funds or unearned attorney fees to clients; (d) abstaining from the use of alcohol or drugs and submitting to random and/or periodic blood or urine testing; (e) completing continuing legal education courses; (f) preparing a law office management plan; and (g) attending State Bar Ethics School and Client Trust Accounting School. In many cases, the attorney is also required to take and pass the Multistate Professional Responsibility Examination. Attorneys who are disbarred, resign from the practice of law with disciplinary charges pending against them, or are actually suspended from the practice of law for a period of 90 days or more also are required to comply with the provisions of rule 9.20 of the California Rules of Court,[1] which requires the attorney to notify his or her clients of the attorney's disbarment, resignation, or suspension and to provide the State Bar Court with an affidavit demonstrating his or her compliance with rule 9.20.

The Office of Probation monitors the disciplined attorney's compliance with these and other conditions. The Office of Probation also monitors attorneys who have not been disciplined but who must comply with conditions pursuant to the Alternative Discipline Program; an Agreement in Lieu of Discipline; or Business and Professions Code section 6007(h).

The Office of Probation may stipulate to modification of the attorney's probation in appropriate cases (subject to approval by a judge of the State Bar Court) or respond to any motions for modification. If a disciplined attorney violates his or her probation conditions, the Office of Probation is authorized to bring a motion in the State Bar Court to either revoke the attorney's probation or report the violation to the Office of the Chief Trial Counsel for disciplinary prosecution. In cases involving the attorney's failure to comply with rule 9.20; with conditions attached to a public or private reproval; or with conditions ordered pursuant to an Agreement in Lieu of Discipline, the Alternative Dispute Program or Business and Professions Code, section 6007(h), the Office of Probation may report the violations to the Office of the Chief Trial Counsel for disciplinary prosecution.

Although it is a separate and independent office, the Office of Probation has reported directly to the Chief Trial Counsel since April 2005.

The chart below reflects some of the activity of the Office of Probation:

Office of Probation					
	2004	**2005**	**2006**	**2007**	**2008**
Files pending at reporting period end	791	800	857	940	867
Files opened	559	606	566	458	455
Files closed	512	559	481	377	529
Probation revocation motions filed	36	25	26	6	21
Referrals to OCTC for prosecution	103*	129*	97	115	136
* In previous Annual Discipline Reports, these numbers represented only probation referrals. In this Report, they also represent referrals for failures to comply with reproval conditions, Agreements in Lieu of Discipline and rule 9.20 orders.					

[1] Prior to January 1, 2007, this rule was numbered rule 955.

OFFICE OF MANDATORY FEE ARBITRATION

Pursuant to Business and Professions Code section 6200 *et seq.,* the State Bar's Mandatory Fee Arbitration ("MFA") Office administers a statewide program for the arbitration of fee disputes and/or costs between attorneys and clients. In California, the arbitration of fee and cost disputes is mandatory for the attorney upon the client's request. However, if the parties previously agreed in writing to resolve fee disputes through the program, then the attorney may require the client to participate. The majority of fee arbitration requests are filed with the 45 local bar associations' mandatory fee arbitration programs, programs which the State Bar Board, through the MFA Committee, oversees. The State Bar's MFA Program provides fee arbitration where: 1) there is no local bar program; 2) the local bar program lacks jurisdiction; or 3) a party asserts that he or she cannot receive a fair hearing through the local bar program.

In addition, the State Bar MFA Office has exclusive statutory authority under the MFA statutes to assist clients with enforcement of a final arbitration award or judgment requiring a refund of unearned attorney's fees. Under Business and Professions Code section 6203(d), an attorney may be ordered to pay administrative penalties, and is subject to involuntary inactive enrollment for failure to pay the client a fee arbitration award or civil judgment confirming an award.

Significant Trends in 2008

The number of fee arbitration cases filed with the State Bar program continues to decline from past year highs, mainly due to staff's concerted effort to refer more cases from Los Angeles county to local bar programs with jurisdiction. In particular, parties from Los Angeles County now have eight (8) local bar programs available in addition to the State Bar program. On the other hand, the State Bar's MFA caseload has no backlog of cases, with fewer than ten cases total pending assignment to an arbitration panel.

Despite a temporary reduction in staffing in 2008, the MFA Office eliminated the backlog of enforcement of award cases pending from prior years, closing 61 cases after payment by attorney or for other reasons such as settlement or claim abandonment. Telephone intake volume, an integral part of the Office's public protection and member services function, remained steady.

The State Bar's MFA Committee continues to be a national leader in developing resources and training for volunteer fee arbitrators serving MFA programs throughout California. Model Rules of Procedure for Fee Arbitrations were revised and approved by the Board of Governors in 2008. The MFA Committee held a record eleven training courses for volunteer fee arbitrators offering free CLE to 187 attorney members, including the launch of a new advanced training program. The MFA Committee also issued two arbitration advisories for arbitrators and three program advisories for local bar administrators. In addition, the MFA Office hosted two local bar MFA administrators roundtables hosted by the Director and Committee members. The MFA Committee presented two State Bar Annual Meeting programs to educate members about ethical and legal concerns surrounding collection of attorney's fees.

Mandatory Fee Arbitration Cases

The number of fee arbitration requests declined from last year (from 123 in 2007 to 106 in 2008, a 13.8% decrease.) This decline is largely due to State Bar staff's adherence to rules implemented in 2006 encouraging parties to arbitrate through the local bar programs absent a demonstrable showing to the State Bar that a fair hearing cannot be obtained locally. In particular, the State Bar significantly reduced the number of fee disputes it accepts from Los Angeles County largely due to the availability of eight local bar fee arbitration programs. Also, the State Bar handled slightly fewer jurisdictional challenges and requests for removal from the local bar programs

this year than it did last year. Such challenges must be processed by staff and are determined by the State Bar's volunteer Presiding Arbitrator.

This year, 69 fee arbitration awards were served, a slight decrease from last year's 98 awards. 61 cases were closed with no award compared to 85 cases last year. This suggests continued informal settlement activity by the parties prior to the arbitration hearing and the staff's elimination of abandoned fee claims.

The chart below reflects the MFA Program's statewide activity:

Mandatory Fee Arbitration Requests Filed					
	2004	**2005**	**2006**	**2007**	**2008**
MFA requests filed with the State Bar	211	144	174	123	106
MFA requests filed with local bar associations	1,771	1,661	1,475	1,546	1,718
Requests for enforcement of award filed	72	78	61	70	62

Client's Request for Enforcement of Award Cases

After a mandatory fee arbitration program issues an arbitration award for a refund of fees from an attorney, the State Bar has exclusive jurisdiction to enforce the award, once it has become binding or affirmed as a final civil judgment, at the client's request regardless of the program origin of the award. Informal efforts are made by the MFA office to obtain payment in full or installments by the member before commencing formal enforcement proceedings. Most cases resolve informally.

Business and Professions Code section 6203, subdivision (d) authorizes the State Bar to petition the State Bar Presiding Arbitrator to assess administrative penalties against an attorney who fails to respond to the enforcement request. Penalties are added to the member's bar dues for the following calendar year. If the award debtor does not cooperate with the State Bar's enforcement efforts, the Office may file a motion in State Bar Court to enroll the attorney on involuntarily inactive status until the award or judgment is paid to the client. The attorney is eligible to petition the court to return to active status upon a showing that the award and any administrative penalties assessed against the member have been paid.

The MFA Office accepted 62 enforcement requests from clients in 2008. This number represents a slight decrease from last year's 70 cases (11.4% decline). Partly due to a temporary staff vacancy in enforcement, the MFA Office filed 6 motions to enroll attorneys on inactive status for failure to pay, compared to 12 motions filed last year. At the same time, the decrease in the number of motions filed and the corresponding decrease in the number of Orders Assessing Administrative Penalties filed in 2008 also reflect the State Bar's effectiveness in obtaining payments for clients prior to initiating formal enforcement proceedings.

Finally, in 2008, the State Bar Court granted six motions filed by the MFA Office to involuntarily enroll award debtors on inactive status for failure to a pay an award, approximately the same number enrolled on inactive status for nonpayment as last year.

Enforcement Activity					
	2004	**2005**	**2006**	**2007**	**2008**
Orders Filed Assessing Administrative Penalties*	–	–	19	16	7
Motions Filed To Enroll Attorney Inactive	15	13	23	12	6
Attorneys Involuntarily Enrolled Inactive	5	6	19	5	6
* The number of orders filed assessing administrative penalties were not tracked prior to 2006.					

The MFA Panel

Unlike local bar programs situated in one county, the State Bar's Mandatory Fee Arbitration panel must be prepared to assign cases for hearing in all 56 counties. There is also a natural annual attrition of volunteers due to death, retirement, relocation, etc. Therefore, the Office and MFA Committee must actively recruit new volunteers from all counties in the state to serve on its panel. In 2008, the State Bar's Fee Arbitration Department increased by 37 new fee arbitrators last year for a total of 454 volunteer fee arbitrators (lawyer and non-lawyers).

Telephone Intake

The MFA Office provides direct information to members and clients throughout the state concerning their respective rights and obligations under the MFA Program as well as post-arbitration enforcement of award and litigation procedures. The MFA Office also responds daily to calls and emails from local bar administrators seeking assistance from the State Bar on procedural issues on pending fee arbitration cases filed locally. Calls to the office's main line are answered live during office hours and voice messages left after hours are returned within 24 hours. During 2008, a total of 5,917 calls were taken (400-500 calls/mo.) compared to 6,121 calls last year.

MFA Office Staffing

The State Bar's MFA Office consists of a Director, three senior administrative assistants, and one administrative assistant. All staff respond to requests for information made by telephone or written correspondence concerning the MFA Program and make appropriate internal and external referrals. Two senior administrative assistants administer the State Bar's fee arbitration program, handling telephone intake, assignment of volunteer fee arbitrators to a single or three-member arbitration panel, and service of State Bar Court fee arbitration awards. Staff also handles all procedural issues that arise during fee arbitration.

The third senior administrative assistant processes the clients' requests for enforcement of award matters under direct supervision of the Director. Processing requests for enforcement of award matters includes intake, assessing jurisdictional challenges, communicating with and processing orders from the volunteer Presiding Arbitrator, monitoring installment payments by attorneys, drafting pleadings and compiling exhibits to file in the State Bar Court in support of motions for involuntary inactive enrollment of members who fail to comply with awards or civil judgments requiring a refund of unearned fees to the client.

The Director supervises office staff, staffs the MFA Committee, provides direct support and guidance to the 45 local bar programs with instant response turnaround, oversees the MFA Office's fee arbitration and enforcement of award caseloads, prepares pleadings for and appears in State Bar Court as Special Deputy Counsel on enforcement of award matters, and frequently lectures on MFA best practices, fee arbitrator training, and attorney education seminars through CEB, the ABA National Forum on Client Protection, local bar associations, and Executives of California Lawyers' Associations ("ECLA").

State Bar Reimbursement to Local Bar Fee Arbitration Programs

Any approved local bar MFA program may choose to enter a contract with the State Bar for the purpose of receiving a $36 flat fee reimbursement payment for fee arbitration or fee mediation cases that it assigns. The MFA Office processes the contracts annually and local bar requests for reimbursement submitted quarterly by the local bar programs. For 2008, the State Bar will have paid a total of $60,130 in reimbursement payments to the local bar programs for a total of 1,718 fee arbitration or fee mediation matters assigned by the programs with 2008 contracts with the State Bar.

The State Bar Committee On Mandatory Fee Arbitration

The MFA Office's Director staffs and coordinates the activities of the State Bar Standing Committee on Mandatory Fee Arbitration ("MFA Committee"). The MFA Committee consists of approximately 16 lawyer and public members, including the State Bar's Presiding Arbitrator. The MFA Committee reports to the State Bar Board of Governors' Committee on Regulation, Admissions and Discipline ("RAD") and is assigned two Board liaison members. The MFA Committee met six times in 2008.

The MFA Committee is responsible for reviewing case law, proposing and monitoring new legislation affecting fee arbitration, providing policy guidance and assistance to the local bar programs, conducting fee arbitrator training programs for fee arbitrators throughout the state, developing training materials and advisories for fee arbitrators and guidance for program staff, and presenting legal education courses on selected topics concerning attorney's fees and the fee arbitration program. Since local bar fee arbitration programs must obtain the Board of Governors' approval for local rules of procedures, the MFA Committee reviews local bar rules and makes recommendations to the Board.

In 2006, the MFA Committee developed the state's first set of Model Rules of Procedure for Fee Arbitrations to assist local bar programs in developing local rules that comply with the MFA statutes and the State Bar's Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs. In 2008, the Board of Governors approved amendments to the model rules based upon the recommendation of the MFA Committee. In 2008, the MFA Committee also rolled out an award checklist to help standardize award content and a fee waiver form to assist all local bar programs.

Key Accomplishments of the MFA Committee in 2007

Activities of Committee on Mandatory Fee Arbitration					
	2004	**2005**	**2006**	**2007**	**2008**
Fee arbitrator training programs (MCLE credit)	6	8	8	10	11
Annual meeting programs (MCLE credit)	3	3	2	3	2
Arbitration Advisories	1	2	0	2	2
Program Advisories	1	2	1	3	3

Fee Arbitrator Training Programs

In 2008, 187 attorneys received free CLE credit for arbitrator training offered by the MFA Committee. The MFA Committee presented a total of nine (9) three-hour fee arbitrator training programs for local bar programs throughout the year. A rotating panel of MFA Committee members presented the training program. Free Minimum Continuing Legal Education ("MCLE") credit was offered to attorney fee arbitrators. In addition, each attendee received written training materials prepared by the MFA Committee and assembled by staff. New in 2008, the MFA Committee launched a two- hour advanced training program for current arbitrators and presented two advanced programs for local bar programs. The first advanced program was webcasted live.

MCLE Programs

The MFA Committee presented two (2) programs on attorney's fees issues for MCLE credit at the State Bar's 2008 Annual Meeting in Monterey. The programs were entitled "Attorney's Fees: You Put in the Time, But Can You Collect?" and "Attorney's Guide to Arbitrating and Litigating a Fee Dispute." Both programs were well attended and received high marks from attendees.

In addition, the Director and a Committee member presented a CLE brown bag program for the Alameda County Bar Association's family law section.

Arbitration Advisories

In addition to the MCLE programs, the MFA Committee is responsible for identifying MFA-related legal issues and developing them into written advisories for fee arbitrators. The advisories are distributed to local bar program committees, administrators, and volunteer fee arbitrators. These advisories are also posted on the State Bar's website. The Committee published two arbitration advisories in 2008:

No. 08-02 Authority to Compel Compliance with Third-Party Subpoenas (5/25/2008);

No. 08-01 Timing of Agreements to Binding Fee Arbitration (4/3/2008).

Program Advisories

The MFA Committee issues advisories on procedural and administrative issues that may arise to assist local bar program administrators. In 2008, the MFA Committee issued three advisories for local bar programs as follows:

"Deciding Requests for Waiver of Arbitration Filing Fees";

"How to Proceed when a Party Denies the Existence of Attorney-Client Relationship"; and

"Venue for Mandatory Fee Arbitration Cases When Attorney Seeks to Enforce 'Choice of Venue' Clause in Fee Agreement."

Approval of Local Bar Rules of Procedure

In 2008,based upon the recommendation of the MFA Committee, the Board of Governors approved new or amended rules of procedure for five local bar programs.

Advice to Local Bar Programs

The MFA Committee and the MFA Office's Director provide advice and guidance to the 45 local bar arbitration programs and parties on an as-needed basis. Most of the issues that are raised informally by the local programs or parties are handled as they arise by the MFA Office Director, the Presiding Arbitrator and MFA Committee Chair. Other issues and questions presented are addressed in regular MFA Committee meetings.

PROFESSIONAL COMPETENCE

The State Bar's ongoing Competency-based programs to maintain and improve the quality of legal services available in California significantly contribute to the State Bar's efforts in support of public protection and the effective administration of justice.

Rules of Professional Conduct

In 2005, the State Bar President appointed a task force to conduct a study and prepare a report to the Board of Governors on whether California lawyers should be required to disclose if they maintain professional liability insurance and, if so, how such a requirement should be accomplished. Several proposals were circulated for public comment and studied by the Board of Governors. On November 20, 2008, the State Bar filed a memorandum with the Supreme Court requesting approval of proposed Rule of Professional Conduct 3-410. If approved by the Supreme Court, this new rule would require that a member who does not have professional liability insurance disclose that fact in writing to a client, at the time the member is engaged, whenever it is reasonably foreseeable that the total amount of the member's legal representation of the client in the matter will exceed four hours. If a member who has professional liability insurance at the time of engagement later ceases to have the insurance, the member must inform the client in writing within thirty days after the member knows or should know that he or she no longer has insurance. The rule would exempt: government lawyers or in-house counsel whose only client is the entity employer; members who render legal services in an emergency; and members who previously provided the disclosure to a returning client. The Board of Governors adopted the proposed rule as a public protection measure to provide information that a client may consider relevant to employing an attorney. In the absence of a rule, a prospective client must ask whether the attorney has professional liability insurance. The rule becomes a binding disciplinary standard only upon approval by the Supreme Court.

The Commission for the Revision of the Rules of Professional Conduct

In addition to the above task force study, the State Bar's Commission for the Revision of the Rules of Professional Conduct ("Commission") continued its multi-year project to conduct a comprehensive review of the State Bar's ethics rules in light of developments over the past 10 years and current trends nationally. The specific charge of the commission is as follows:

"The Commission is to evaluate the existing California Rules of Professional Conduct in their entirety considering developments in the attorney professional responsibility field since the last comprehensive revision of the rules occurred in 1989 and 1992. In this regard, the Commission is to consider, along with judicial and statutory developments, the Final Report and Recommendations of the American Bar Association ("ABA") Ethics 2000 Commission, the American Law Institute's Restatement of the Law Third, The Law Governing Lawyers, as well as other authorities relevant to the development of professional responsibility standards. The Commission is specifically charged to also consider the work that has occurred at the local, state and national level with respect to multidisciplinary practice, multi-jurisdictional practice, court facilitated *propria persona* assistance, discrete task representation and other subjects that have a substantial impact upon the development of professional responsibility standards.

"The Commission is to develop proposed amendments to the California Rules that:

1) Facilitate compliance with and enforcement of the rules by eliminating ambiguities and uncertainties in the rules;

2) Assure adequate protection to the public in light of developments that have occurred since the rules were last reviewed and amended in 1989 and 1992;

3) Promote confidence in the legal profession and the administration of justice; and

4) Eliminate and avoid unnecessary differences between California's rules and the rules of other states, fostering the evolution of a national standard with respect to professional responsibility issues."

In 2008, the Commission conducted eleven day-long meetings. At its meetings, the Commission continued its work to carry out the Board's charge to conduct a comprehensive study of the rules of professional conduct and to develop proposed amendments. The Commission considered the following proposed amended California rules (ABA Model Rule counterparts, if any, are indicated in parentheses): 1-120 (8.4); 1-300 (5.5); 1-310 (5.4); 1-311; 1-600 (5.4); 2-100 (4.2); 2-200 (1.5(e)); 2-300 (1.17); 2-400; 3-100 (1.6); 3-110 (1.1); 3-120 (1.8(j)); 3-300 (3.2); 3-220; 3-300 (1.8(a)); 3-310(B)(C)(E) (1.7); 3-310(D)(1.8(g)); 3-600 (1.13); 3-700 (1.16); 4-100 (1.15); 4-200 (1.5(a)); 4-210 (1.8(e)); 4-300 (1.8(i)); 4-400 (1.8(c)); 5-100; 5-110 (3.8); 5-120 (3.6); 5-200 (3.3); 5-210 (3.7); 5-220 (3.4); 5-300 (3.5); and proposed new rules comparable to the following ABA Model Rules for which there are no California counterparts: 1.10; 1.12; 1.18; 4.3; 6.5; 8.3.

A group of thirteen draft rules was distributed for public comment with a deadline of June 6, 2008 and 140 written public comments were received. In addition, on May 22, 2008, a public hearing on the thirteen draft rules was held in Sacramento.

The Commission's E-List, an e-mail distribution group used by the Commission members, liaisons, and other subscribers, had the following activity: 243 postings to 126 subscribers for a total of over 30,618 messages. These messages included meeting notices and materials, as well as, information on recent developments in legal ethics, and informal comments and discussions about the Commission's draft rules. Of the 126 total subscribers, 7 were added in 2008. In addition to the e-mail messages an informal comment letter was received from an interested person concerning a proposal for a new rule on hourly billing practices.

As part of the 2008 State Bar Annual Ethics Symposium held on May 3, 2008 at the University of San Francisco School of Law, the Commission presented an educational program on several rule amendment issues under consideration including: unconscionable fees for legal services; adverse interests and business transactions; and the sale of a law practice. The program evaluation forms submitted by the symposium attendees gave the Commission's panel high marks, including an average mark of 4.5 (out of 5) for significant intellectual or practical content.

As part of the 2008 State Bar Annual Meeting held in Monterey in September, 2008, the Commission co-presented an educational panel with representatives of two Intellectual Property American Inns of Court. The program was entitled: "What Every Lawyer Needs to Know About the Upcoming Changes to the Rules of Professional Conduct." The program was one of a small group of programs selected for a live webcast and had approximately 200 people in attendance onsite and 94 viewing the webcast. The evaluation forms received for this program gave it top marks.

The Standing Committee on Professional Responsibility and Conduct ("COPRAC")

COPRAC's primary activity is to develop the State Bar's advisory ethics opinions. COPRAC also assists the Board of Governors by studying and providing comment on the Rules of Professional Conduct and other laws governing the conduct of attorneys.

Regarding COPRAC's charge to assist in the consideration of proposed amendments to the Rules of Professional Conduct, COPRAC representatives attended and monitored the meetings of the Commission. COPRAC studied the Commission's third group of 13 proposed rules issued for public comment in 2008, and submitted 11 written comments on the proposed rules indicating its general agreement but also recommending some modifications.

Ethics Opinions

COPRAC's formal ethics opinions guide members in maintaining their ethical standards. The non-binding opinions are developed in response to questions posed by bar groups or individual members. In 2008, COPRAC issued the following opinions:

Opinion Published in 2008

FORMAL OPINION NO. 2008-175

ISSUE: What are a successor attorney's ethical obligations when her client in a contingency fee matter instructs her not to notify prior counsel, who has a valid lien against the recovery, of the fact or the amount of a settlement?

DIGEST:

1. When a client instructs successor counsel not to disclose a settlement to a prior counsel with a valid lien, successor counsel must advise the client of the adverse ramifications of concealing the settlement, including a potential claim by prior counsel against the client. Should the client persist, successor counsel must nevertheless disclose the settlement to prior counsel.

2. A lawyer may not reveal confidential client information except with the consent of the client or as authorized or required by the State Bar Act, the Rules of Professional Conduct, or other law. Disclosure is required by law to fulfill the attorney's fiduciary duties to prior counsel. Disclosure is also authorized by law to enable both attorneys to protect their right to recover fees.

3. While the successor attorney is both obligated and permitted to disclose the fact and the amount of the settlement to the prior attorney, successor counsel may not disclose anything more to the prior attorney, without the client's consent, including the client's demand that the fact and the amount of the settlement be concealed from the prior attorney.

4. Once prior counsel is notified, both attorneys must remain mindful of their duty of confidentiality to the client in attempting to reach an accord, amicably or through legal process, on the proper allocation of fees. Moreover, should the attorneys resort to legal process to resolve any dispute over allocation of the fee,

successor counsel should provide the client with notice and an opportunity to participate. In any legal proceeding, the presiding officer will be in a position to limit the disclosure of confidential information appropriately.

Opinions Circulated for Public Comment in 2008:

Proposed Interim Opinion No. 05-0001 (90-day public comment deadline: August 1, 2008) See issue and digest above, Formal Opinion No. 2008-175.

Proposed Interim Opinion No. 98-0001 (90-day public comment deadline: October 31, 2008)

ISSUES: In a lawsuit prosecuted by Attorney A against Defendant, Client has a statutory right to seek an award of attorney's fees. Attorney B, Defendant's counsel, makes a settlement offer, conditioned on Client's waiver of his statutory right to attorney's fees, that is insufficient to compensate Attorney A for her fees. (1) May Attorney A bar the settlement notwithstanding Client's desire to accept it? (2) Does Attorney B violate any ethical obligation by recommending or conveying the fee-waiver settlement offer in this case? (3) Does Attorney B violate any ethical obligation by recommending or conveying fee-waiver settlement offers in cases generally?

DIGEST:

1. A lawyer must inform the client of a fee-waiver settlement offer and consummate the settlement in accordance with the client's wishes even if it reduces the likelihood of recovering some or all of his or her fees.

2. A lawyer does not violate any ethical obligation by recommending or conveying a fee-waiver settlement offer in a given case.

3. A lawyer does not violate any ethical obligation by recommending or conveying fee-waiver settlement offers in cases generally.

Proposed Interim Opinion No. 06-0001 (90-day public comment deadline: December 8, 2008)

ISSUE: In what manner may an attorney maintain her rights in a charging lien when her former client demands that the attorney endorse a settlement check jointly payable to the client and his current and former attorneys without violating the requirement of rule 4-100 of the California Rules of Professional Conduct that the attorney promptly pay or deliver funds to which the client is entitled?

DIGEST: An attorney must take prompt steps to find a reasonable method or methods of delivering the undisputed portion of the funds to which the client is entitled. The attorney does not violate rule 4-100 by refusing to use a method that would extinguish the attorney's charging lien. If the client does not agree to proposed reasonable methods for delivering the undisputed portion, the attorney must promptly seek resolution of the fee dispute through arbitration or judicial determination, as appropriate.

Proposed Interim Opinion No. 06-0006 (90-day public comment deadline: February 3, 2009)

ISSUES: Is it ethically proper for an attorney who is settling a fee dispute with a client to include a general release and a Civil Code section 1542 waiver in the settlement agreement? Does the existence of a legal malpractice claim against the attorney alter the ethical propriety of including a general release and section 1542 waiver in the settlement agreement?

DIGEST: If an attorney contemplates entering into a settlement agreement with a current client that includes a general release of a legal malpractice claim or pursues a settlement agreement with a client, the terms of which are broad enough to release a legal malpractice claim, the attorney must promptly disclose to the client the facts giving rise to the legal malpractice claim. The attorney must consider whether it is necessary or appropriate to withdraw from the representation. If the attorney does not withdraw, the attorney must:

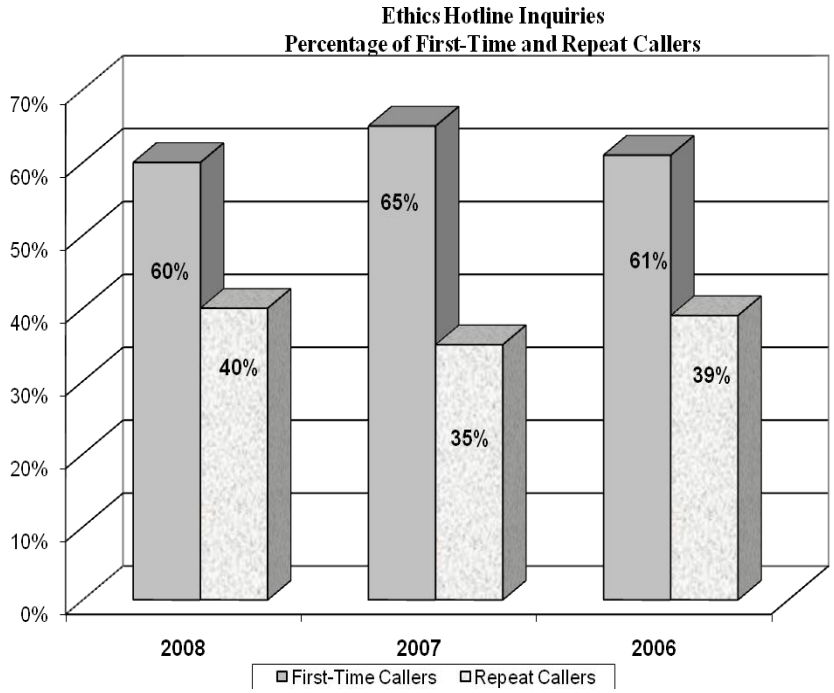
1. Comply with rule 3-400(B) by advising the client of the right to seek independent counsel and giving the client an opportunity to do so;
2. Advise the client that the lawyer is not representing or advising the client as to the settlement of the fee dispute or the legal malpractice claim; and
3. Fully disclose to the client the terms of the settlement agreement, in writing, including the possible effect of the general release and section 1542 waiver, unless the client is represented by independent counsel.

Ethics Hotline

The State Bar's toll-free statewide confidential service (1-800-2-ETHICS) provides California attorneys with information and research assistance on ethical questions. In 2008, Ethics Hotline staff answered 21,467 calls, distributed 670 packets of local bar association and State Bar ethics opinions to interested persons and made 5,983 referrals to online resources posted at the State Bar's website. The chart provided below identifies the types of ethical issues most frequently raised by the Ethics Hotline inquirers in the year 2008, as compared to 2007.

Frequently Named Ethics Issues by Percent		
	2007	**2008**
Fees and Costs for Legal Services	17%	17%
Conflicts of Interest	14%	12%
Attorney Advertising and Solicitation	9%	12%
Communications with Clients, Adverse Party and Others	9%	11%
Client Confidential Information	8%	9%
Competence	6%	7%
Unauthorized Practice of Law	7%	6%
Misconduct/Moral Turpitude/Trial Conduct	8%	6%

The Ethics Hotline staff obtains voluntary demographic data from the Ethics Hotline inquirers. Among the information obtained is whether the inquirer is a first-time or repeat caller to the Ethics Hotline. The information is provided in the chart below and includes data from 2008 and the two preceding years.



Publications

California Compendium on Professional Responsibility

The State Bar publishes the California Compendium on Professional Responsibility ("Compendium"), a compilation of local, state and national ethics information. It is updated annually. In 2008, 263 Compendium updates and new subscriptions were sold, with more sales expected to post in early 2009. Two of the Compendium's key components are its collection of all of the COPRAC ethics opinions and its comprehensive topical index. These components are available as free online electronic resources at the State Bar website. This free online availability may be contributing to decreased interest in subscriptions to the hard copy reference book.

California Rules of Professional Conduct and State Bar Act

California Rules of Professional Conduct and State Bar Act ("Publication 250") is a desktop resource book which includes: The California Rules of Professional Conduct (past and present), the State Bar Act, California Rules of Court related to the State Bar and members of the State Bar, various statutes regarding the attorney discipline system and the duties of members of the State Bar, the Minimum Continuing Legal Education Rules and Regulations and the Rules and Regulations Pertaining to Lawyer Referral Services (including Minimum Standards for a Lawyer Referral Service in California). In 2008, 1,792 copies of Publication 250 were sold. As is the case with the Compendium, free online availability of the State Bar rules and other selected codes contained in this publication may be contributing to decreased sales. The online PDF version of the Rules of Professional Conduct posted at the Bar's website was downloaded 20,504 times.

Handbook on Client Trust Accounting for California Attorneys

The Handbook on Client Trust Accounting for California Attorneys ("Handbook") is a practical guide created to assist attorneys in complying with the record keeping standards for client trust accounts that went into effect on January 1, 1993. The Handbook includes a copy of the standards and statutes relating to an attorney's trust accounting requirements, a step-by-step description of how to maintain a client trust account and sample forms. A free full-text online version of the Handbook was downloaded from the Bar's website more than 164,178 times during 2008, and 52 copies were sold.

Ethics School Program Videotape

The Ethics School Program Videotape was produced in 1994 and was designed to offer the highlights of the State Bar's Ethics School Program touching on the following four topics: formation of the attorney/client relationship, withdrawal from employment, client trust accounting and reportable actions. The program is approved for one hour of Minimum Continuing Legal Education ("MCLE") credit in legal ethics.

Special Projects

Annual Statewide Ethics Symposium

COPRAC's 12th Annual Statewide Ethics Symposium was held on May 3, 2008 at the University of San Francisco School of Law. The theme of the Symposium was "NOTORIETY – When the Spotlight Is on Ethics." The panels presented included the following: "Public Lawyers In The Political Maelstrom;" "Ethical Issues in Class Actions and Derivative Litigation;" Prosecutorial Misconduct: Epidemic or Aberration?;" and "[In]Advertent Disclosure: For Whose Eyes Only?" State Bar President Jeff Bleich and USF School of Law Dean Jeffrey Brand provided welcoming remarks. The keynote speaker was Professor Geoffrey Hazard. There were 110 attendees. The Symposium received high marks in all program evaluation categories from the attendees.

Annual Meeting Programs

COPRAC conducted four programs at the State Bar Annual Meeting held in Monterey in September, 2008. The four programs sponsored by COPRAC were entitled "Keeping Your Client Trust Account and Collecting Your Fee," "Electronic Ethics," "Recent Significant Developments Affecting the Law of Lawyers," and "Recognizing Interests and Avoiding Conflicts." One of COPRAC's programs was selected for videotaping to be made available as part of the State Bar's online CLE resources. All COPRAC sponsored programs were well attended and received high marks in all program evaluation categories from the attendees.

Local and Specialty Bar Association Outreach Programs

In cooperation with local and specialty bar associations, State Bar staff and COPRAC conduct outreach ethics programs at various locations. Eight outreach presentations were conducted in 2008, including presentations for the Los Angeles, Orange County and San Diego County Bar Associations, the California District Attorneys Association, and the State Bar Public Law Section.

Competence Resources on the State Bar Website

In 2008, the ethics and competence-related resources on the Bar's website were maintained and updated, including the following: 1) Rules Revision Commission meeting agendas, materials and action summaries, and the posting of a public comment circulation and electronic public comment form to receive online comment submissions for the third group of rules circulated in 2008; 2) year 2008 updates to the California Rules of

Professional Conduct, the State Bar Act and other provisions governing the duties of attorneys; 3) COPRAC draft opinions and rule amendments circulating for public comment; and 4) COPRAC formal advisory ethics opinions.

The chart below lists selected web pages administered by Professional Competence and the activity in terms of downloads and visits (a.k.a. "hits").

2008 Professional Competence Web Resources – Activity Detail	
Webpage	**Number of Downloads/Visits**
Trust Accounting Handbook pdf	164,178 downloads
COPRAC pages	38,847 visits
Rules of Professional Conduct html pages	65,372 visits
The State Bar Act html pages	137,624 visits
Ethics Hotline html pages	26,345 visits
Ethics Opinions html pages	61,938 visits
2008 California Rules of Professional Conduct pdf	20,504 downloads

OFFICE OF SPECIAL ADMISSIONS AND SPECIALIZATION, MEMBER SERVICES CENTER, ACCESS AND FAIRNESS DEPARTMENT AND OFFICE OF THE SECRETARY

The Office of Special Admissions and Specialization

In 2006, the Office of Certification was dissolved, and the programs and services were reorganized. The Office of Special Admissions and Specialization became part of the Office of Admissions. The Office of Special Admissions and Specialization manages special programs that allow qualified individuals who are not State Bar of California members to practice law in California under limited circumstances: Multijurisdictional Practice, *Pro Hac Vice*, Out-of-State Attorney Arbitration Counsel, Military Counsel, and Foreign Legal Consultants. It also administers the Practical Training of Law Students Program that allows law students to gain legal experience in a supervised environment, the legal Specialization Program, which directly certifies qualified California attorneys as certified legal specialists in eleven areas of law and the Minimum Continuing Legal Education ("MCLE") Providers Program that authorizes education providers to offer approved courses.

Legal Specialization
(California Rules of Court rule 9.35 and State Bar Rules & Standards)

The Legal Specialization Program certifies attorneys who specialize in the following areas of law: admiralty and maritime appellate, bankruptcy, criminal, estate planning, trust and probate, family, franchise and distribution, immigration and nationality, legal malpractice, taxation and worker's compensation. To become a certified specialist, an attorney must pass a written examination, possess special education and experience, and undergo peer review. Certified specialists must recertify every five years. Currently, there are approximately 4,200 certified legal specialists.

In addition, the State Bar currently has accredited five entities that certify attorneys in the following areas: accounting malpractice, business bankruptcy, civil trial advocacy, consumer bankruptcy, creditor's rights, criminal trial advocacy, elder law, family law trial advocacy, juvenile law (child welfare), legal malpractice, and Social Security disability. There are approximately 270 specialists certified by the accredited entities.

Multi-jurisdictional Practice
(California Rules of Court rules 9.45-9.48 and State Bar Rules)

Four categories of out-of-state attorneys are permitted to provide certain limited legal services in California under four separate Rules of Court: Attorneys currently licensed in another United State jurisdiction and residing in California can register with the State Bar to become Registered Legal Services Attorneys under rule 9.45, permitting such attorneys to provide limited legal services to certain non-profit legal service entities. Similarly, attorneys currently licensed in another United State jurisdiction and residing in California can register with the State Bar to become Registered In-House Counsel under rule 9.46, permitting such attorneys to be employees of certain corporations and legal entities and to provide limited legal services to their employers. Neither Registered Legal Service Attorneys nor Registered In-House Counsel can make any appearance in a California court or arbitration proceeding. At the end of 2008, there were approximately 20 Registered Legal Services Attorneys and 770 Registered In-House Counsel. Registered Legal Services Attorneys and Registered In-House Counsel must renew their registration annually and comply with an initial MCLE requirement. In-House Counsel must also comply with ongoing MCLE requirements as long as they remain registered with the State Bar. In addition, rules 9.47 and 9.48 permit out-of-state attorneys not residing in California to come to California temporarily and engage in limited activities relating to certain litigation and non-litigation matters.

Pro Hac Vice
(California Rules of Court rule 9.40)

Attorneys licensed in other United States jurisdictions who intend to appear in California courts on particular cases must file a copy of a pro hac vice application with the State Bar. Such attorneys cannot reside in California. The State Bar assists the judicial system by maintaining a statewide record of those applications. In 2008, approximately 2,700 pro hac vice applications were filed with the State Bar.

Out of State Attorney Arbitration Counsel
(California Rules of Court rule 9.43 and State Bar Rules)

Attorneys licensed in other United States jurisdictions who intend to represent a party in the course of, or in connection with, arbitration proceedings in California must file an application for permission to do so with the State Bar. Such attorneys cannot reside in California. In 2008, approximately 550 initial applications were filed with the State Bar.

Military Counsel
(California Rules of Court rule 9.41)

Attorneys licensed in other United States jurisdictions who serve as judge advocates in California may appear in California courts under *pro hac vice*-like standards if they are made available by the Judge Advocate General to represent persons in military service in California.

Registered Foreign Legal Consultants
(California Rules of Court rule 9.44 and State Bar Rules)

Attorneys licensed to practice in foreign jurisdictions who wish to practice the law of that jurisdiction in California must become a Registered Foreign Legal Consultant with the State Bar. To register, foreign attorneys must be currently licensed in the applicable foreign jurisdiction, have actively practiced the law of the foreign jurisdiction for a required number of years, provide specified security for claims for malpractice and pass a moral character review. Registered Foreign Legal Consultants can only practice the law of the foreign jurisdiction in which they are licensed and not the law of California. At the end of 2008, there were 42 Registered Foreign Legal Consultants practicing the law of 25 different foreign jurisdictions.

MCLE Providers
(Business & Professions Code section 6070, California Rules of Court rule 9.31 and State Bar Rules)

Education providers who wish to offer courses to members to satisfy MCLE requirements must comply with education criteria to become providers. Education providers who are not Multiple Activity Providers can obtain approval from the State Bar for individual courses as Single Activity Providers. During 2008, the State Bar received approximately 1,450 applications for provider status and individual course approval. The State Bar renewed the Multiple Activity Provider status of 203 providers in 2008. Currently, there are approximately 1,500 Multiple Activity Providers.

Legal Specialization Program, through its Advisory Commissions, supervises the quality of proposed continuing legal education programs that may be attended by attorneys seeking education units to meet the 45 hours of approved education for certification or the 60 hours of approved education for recertification. There are approximately 183 approved providers and individually approved programs.

Practical Training of Law Students
(California Rules of Court rule 9.42 and State Bar Rules)

Law students who meet certain requirements may provide legal services under the supervision of a California licensed attorney. In 2008, approximately 1,760 Practical Training of Law Students certification applications and approximately 920 extensions were approved.

Member Services Center

The Member Services Center ("MSC") duties include the responsibility of maintaining the State Bar membership roll, monitoring member compliance with MCLE requirements, administering the Law Corporation and Limited Liability Partnership certification programs and administering the State Licensing Match System program.

Membership Records
(Business and Professions Code section 6002, The Rules of the State Bar)

The MSC maintains the State Bar membership roll. Members are required to maintain a current address with the State Bar of California. In 2008, the MSC processed 50,810 address changes. The MSC also process non-disciplinary status changes in accordance with the Rules of the State Bar. In 2008 there were 8,848 such status changes. The MSC staff also performed the actual status changes required by discipline orders (approximately 1,000), processed voluntary resignations (approximately 200) and created membership records for new admittees (7027).

Minimum Continuing Legal Education Compiance
(Business & Professions Code section 6070, California Rules of Court rule 9.38 and State Bar Rules & Regulations)

With the exception of exempt members, all active members of the State Bar must meet Minimum Continuing Legal Education ("MCLE") requirements every three years. Effective July 1, 2008, the State Bar placed 534 members of MCLE compliance Group 3 (last names N-Z) on administrative inactive status for failure to comply with MCLE requirements. This represents 0.93% of the original 57,672 members who were due to report compliance in 2008. On December 1, 2008, the State Bar sent MCLE compliance cards to 47,334 of its compliance Group 2 members (last names H-M). (These Group 2 members will be due to report compliance in 2009.) In addition, during 2008, the State Bar received 359 member credit request applications.

Law Corporation
(Business and Professions Code section 6160 *et seq*. and State Bar Law Corporation Rules)

Attorneys who wish to practice law as a professional law corporation must be registered with the State Bar. Registration requirements include showing corporate structure, possessing security for claims and having an approved name. Law corporations renew their registrations annually. At the end of 2008 there were 7,405 registered law corporations.

Limited Liability Partnerships
(State Bar LLP Rules & Regulations)

Professional partnerships wishing to practice law as a Limited Liability Partnership ("LLP") must register with the State Bar. Among other things, LLPs must provide evidence of registration with the Secretary of State and a list

of partners, and have an approved name. The LLPs must renew their registrations annually. At the end of 2008, there were 2,379 LLPs.

State Licensing Match System Program
(Family Code section 17520 and the Rules of the State Bar)

Family Code section 17520 requires the State Bar of California to participate in a program aimed at increasing compliance with judgments or orders of child and family support. The California Department of Child Support Services ("DCSS") provides the State Bar with a list of member's who are not in compliance with their child support obligations. The MSC performs the statutory notification requirements and unless the member obtains the necessary DCSS release suspends them. The MSC also reinstates suspended members upon receipt of a DCSS release. In 2008, the MSC sent out 77 initial notices of intent to suspend members and actually suspended 22 members who failed to bring themselves into compliance by the suspension deadline.

Access and Fairness Department

The Lawyer Referral Services Program, previously administered by the Office of Certification, was assigned to the Access and Fairness Department

Lawyer Referral Services
(Business & Professions Code section 6155 and State Bar Rules & Regulations)

The State Bar must certify entities that operate for the direct or indirect purpose of referring potential clients to attorneys in California. These may be non-profit or for-profit entities. At the end of 2008, there were 62 certified lawyer referral services.

Office of the Secretary

The Special Masters List, which was previously maintained by the Office of Certification, is now maintained by the State Bar Office of the Secretary.

Special Masters
(State Bar Rules & Regulations and California Penal Code section 1524)

An attorney who wishes to serve as a special master appointed by courts of record to accompany peace officers conducting searches for documentary evidence under the control of attorneys, physicians and clergy must submit an application to the State Bar. The State Bar maintains the list of attorneys who qualify for special master appointment. At the end of 2008 there were approximately 301qualified special masters.

GENERAL FUND AND MEMBERSHIP FEES

In 2008, the annual membership fee for active members was $400. Members who declared that their gross annual income from all sources was less than $40,000 were eligible for a waiver of 25 percent of the annual membership fee.

Most of the annual membership fee ($315) supports the State Bar's General Fund. A portion of the annual membership fee is assessed for the Client Security Fund ($40), for the Discipline Fund ($25), for the IT Special Assessment Fund ($10), and for the Lawyer Assistance Program ($10). The annual membership fee does not support the program for admission to the State Bar, which is a self-supported program. The annual membership fee does not support other programs considered non-germane to the practice of law; those programs are supported by voluntary contributions.

The State Bar's General Fund provides resources to operate programs that serve both the public and the Bar's active and inactive members. These programs include the attorney disciplinary system, administration of justice, governance, administration of the profession, program development and communications. The charts below show the annual expenditures for General Fund programs and the sub-programs within the Discipline Program that are supported by membership fees. The Probation Unit is listed as a sub-program of Discipline. Prior to 2007, this sub-program was reported as part of the Office of Chief Trial Counsel. In 2003, the State Bar began allocating administrative costs to General Fund programs and sub-programs to better represent the true cost of these operating units. In prior years no such allocation was made and only direct program costs were reported.

GENERAL FUND
2008 Unaudited Actual Program Expenditures (Dollars in Thousands)

Program	Amount	Percentage
Discipline	51,805	83.09%
Administration of Justice	901	1.45%
Governance	2,445	3.92%
Administration of the Profession	2,680	4.3%
Program Development	1,789	2.87%
Communications & CBJ	2,903	4.65%
Miscellaneous Non Departmental Expense	(175)	(0.28%)
TOTAL	62,348	100%

DISCIPLINE
2008 Unaudited Actual Discipline Sub-Program Expenditures (Dollars in Thousands)

Discipline Sub-Program	Amount	Percentage
Office of Chief Trial Counsel	38,232	73.8%
State Bar Court	9,592	18.51%
Probation Unit	831	1.6%
Fee Arbitration Program	775	1.5%
Professional Competence	2,375	4.59%
TOTAL	51,805	100%

GLOSSARY

Arbitration Enforcement
A regulatory proceeding in which the State Bar Court may enforce a Mandatory Fee Arbitration award by placing a member on involuntary inactive status until the award has been paid.

Admission Application
A petition filed by a State Bar applicant seeking a determination that the applicant has the good moral character required for admission to membership in the State Bar. The State Bar Court may grant or deny the application.

Admonition
A written non-disciplinary sanction issued in cases that do not involve a Client Security Fund matter or a serious offense and where the Court concludes that the violation or violations were not intentional or occurred under mitigating circumstances and no significant harm resulted. If within two years after the issuance of an admonition to a respondent, another disciplinary proceeding is initiated against that respondent based upon other alleged misconduct, the proceeding resolved by admonition will be reopened upon motion of the Office of the Chief Trial Counsel filed within 30 days after the initiation of the second proceeding. An admonition may be imposed by the Office of the Chief Trial Counsel or by the State Bar Court pursuant to rule 264 of the Rules of Procedure of the State Bar of California.

Agreement in Lieu of Discipline
An agreement between the member and the Office of the Chief Trial Counsel in lieu of disciplinary prosecution, pursuant to Business and Professions Code sections 6068(l) and 6092.5(i).

Alternative Discipline Program Decision
A decision written by a State Bar Court Judge before a member can be enrolled in the Alternative Discipline Program ("ADP"). These decisions include findings of facts, conclusions of law and a "high" and "low" disciplinary recommendation. The "low" level of discipline is recommended if the member successfully completes ADP. The "high" level of discipline is recommended if the member does not successfully complete ADP. The State Bar Court categorizes these decisions as interim dispositions because a State Bar Court judge must subsequently issue a final decision once the member completes ADP, either successfully or unsuccessfully.

Alternative Dispute Resolution
A procedure for resolving a complaint without the formality of a State Bar Court proceeding, such as through fee arbitration or mediation.

Backlogged complaints
Complaints that have been pending in investigation longer than six full months from the date of receipt (or 12 months if the case is designated as complex) without dismissal, admonition of the member involved or the forwarding of a completed investigation for prosecution.

Business and Professions Code sections 6007(b)(1), (b)(2), (b)(3) and (c)
Business and Professions Code sections 6007(b)(1), (b)(2), (b)(3) and (c) state that a member may be involuntarily enrolled as an inactive member if: the member asserts a claim of insanity or mental incompetence (Bus. & Prof. Code § 6007(b)(1)); a court issues an order assuming jurisdiction over the member's practice (Bus. & Prof. Code § 6007(b)(2)); the member is unable to practice law because of a mental infirmity or illness or because of the habitual use of intoxicants or drugs (Bus. & Prof. Code § 6007(b)(3)); or the member is judged to present a substantial threat of harm to clients or the public (Bus. & Prof. Code § 6007(c)).

Cancelled
See License to Practice Law Cancelled.

Client Trust Accounting School
A four-hour program designed to provide members with practical information on the proper maintenance and handling of client trust accounts.

Complaint
A communication, which is found to warrant an investigation of the alleged misconduct of a member, which, if the allegations are proven, may result in discipline of the member.

Conviction Order
An order issued by the State Bar Court Hearing Department in a conviction referral proceeding at the direction of the State Bar Court Review Department.

Conviction Referral
A formal disciplinary proceeding initiated after a member's criminal conviction to determine whether the conviction involves moral turpitude or other misconduct warranting discipline and, if so, to assess the appropriate level of discipline. A conviction referral proceeding is commenced by a referral order from the State Bar Court Review Department directing the Hearing Department to hold a hearing, file a conviction order and recommend the discipline to be imposed, if any, or to take other action on the issue or issues stated in the order.

Deny Petition/Application
See Probation, Denial of Petition/Application to Revoke.

Disbarment
A disciplinary action whereby the California Supreme Court expels an attorney from membership in the State Bar. The attorney's name is stricken from the roll of California attorneys and the attorney becomes ineligible to practice law.

Disbarment, Summary
A disciplinary action whereby a member is disbarred by the California Supreme Court without the formality of a State Bar Court proceeding. A member convicted of certain crimes may be summarily disbarred, with or without a recommendation by the State Bar Court, pursuant to Business and Professions Code section 6102(c).

Dismissal
The closure of a disciplinary proceeding and dismissal of charges by the State Bar Court or the Office of the Chief Trial Counsel, generally in the interest of justice, pursuant to an agreement in lieu of discipline or for some other specific reason, such as the case has no merit or there is insufficient evidence to prosecute the case.

Ethics School
An eight-hour program that focuses upon general principles of professional responsibility and law practice management and is designed to educate members in methods they can utilize to avoid complaints being made to the State Bar.

Inquiry
A communication concerning the conduct of a member of the State Bar received by the Office of the Chief Trial Counsel which is designated for evaluation to determine whether any action is warranted by the State Bar.

Interim remedies
A proceeding to determine whether the State Bar Court should order interim remedies short of involuntary inactive enrollment pursuant to Business and Professions Code section 6007(h), including, but not limited to, the restriction or supervision of the member's practice or the imposition of probation conditions.

Inactive Enrollment
The transfer of an active member to inactive status. A member on inactive status cannot practice law. The transfer can be made involuntarily pursuant to the Business and Professions Code section 6007(b) or (c) where 1) a member asserts a claim of insanity or mental incompetence, 2) a court issues an order assuming jurisdiction over a member's practice, 3) a member is unable to practice law because of a mental infirmity or illness or because of the habitual use of intoxicants or drugs, or 4) a member is judged to present a substantial threat of harm to clients or the public pursuant; or pursuant to the Mandatory Fee Arbitration Program's request to enroll a member involuntarily inactive due to the member's non-compliance with a Fee Arbitration Award. (*See* Arbitration Enforcement.) A member may request the State Bar Court to lift an involuntary inactive enrollment. (*See* Return to Active Status.)

Referral Order
Issued by the State Bar Court Review department to commence a conviction referral proceeding. Directs the State Bar Court Hearing Department to hold a hearing, file a conviction order and recommend the discipline to be imposed, if any, or to take other action on the issue or issues stated in the referral order.

Return to Active Status
If a member is transferred inactive status involuntarily, pursuant to either Business and Professions Code section 6007(b)(1), (b)(2), (b)(3) or (c) or pursuant to an arbitration enforcement order, the member may request that the State Bar Court lift the involuntary inactive enrollment and return the member to active status. The court may either grant or deny the member's request.

Legal Specialization
The Office of Certification's Legal Specialization Program's certification, or approval of the certification, of a member as a legal specialist in specified areas of the law. *Also* a type of regulatory proceeding, usually initiated by a member, in which the State Bar Court reviews a determination by the Legal Specialization Program that the member does not qualify for certification or recertification as a legal specialist.

License to Practice Law Cancelled
A disciplinary action whereby the California Supreme Court cancels an attorney's license to practice law. The attorney's name is stricken from the roll of California attorneys and the attorney becomes ineligible to practice law.

Modification Order
A disciplinary action whereby the State Bar Court issues an order that significantly modifies a stipulation or a decision in either a disciplinary matter or a regulatory matter.

Moral Character
A moral character proceeding is a regulatory matter in which an applicant appeals an adverse moral character determination made by the Committee of Bar Examiners to the State Bar Court to determine whether the applicant possesses the requisite good moral character for admission to membership in the State Bar.

Notice of Disciplinary Charges
A document filed in State Bar Court containing formal charges against a member.

Other Jurisdiction
A disciplinary proceeding in which the State Bar Court determines whether a member should be disciplined in California for professional misconduct committed in another jurisdiction pursuant to Business and Professions Code section 6049.1, which states that, with limited exception, a finding that a member has committed professional misconduct in another jurisdiction is conclusive evidence that the member is culpable of professional misconduct in California.

Original matter
A formal disciplinary proceeding initiated by the Office of the Chief Trial Counsel to determine whether a member violated the Rules of Professional Conduct or the State Bar Act and, if so, to assess the appropriate level of discipline to be imposed.

Petition for Reinstatement
A petition filed in the State Bar Court by a former member who resigned or was disbarred, which initiates a reinstatement matter. Pursuant to rule 665 of the State Bar Rules of Procedure, in order to be reinstated the former member must demonstrate rehabilitation, present moral qualifications and present learning and ability in the law. The State Bar Court may grant or deny the petition. (*See also* Reinstatement; *compare* Suspension, Relief from Actual.)

Private Reproval
A censure or reprimand issued by the Supreme Court or the State Bar Court that is not a matter of public record unless imposed after the initiation of formal disciplinary proceedings. No period of suspension is imposed. The reproval may be imposed with duties or conditions.

Probation
A status whereby a member retains the legal ability to practice law subject to his or her compliance with terms, conditions and duties for a specified period of time.

Probation, Denial of Petition/Application to Revoke
A disciplinary action whereby the State Bar Court denies a member's motion for the revocation of the member's probation.

Probation, Early Termination of
A disciplinary action whereby the State Bar Court terminates a member's probation before the original end date.

Probation, Extension of
A disciplinary action whereby the State Bar Court extends a member's previously imposed probation term.

Probation, Revocation of
Probation imposed in a prior discipline case is revoked based on the member's violation of one or more terms of that probation. *Also* a formal disciplinary proceeding whereby the State Bar Court recommends the revocation of a member's probation imposed in a prior discipline case based on the member's violation of one or more terms of that probation.

Probation Monitor
A practicing attorney who monitors a disciplined member's compliance with probation and other conditions. A probation monitor's duties are detailed in rule 2702 of the Rules of Procedure of the State Bar of California.

Professional Responsibility Examination Order
A disciplinary action whereby the State Bar Court extends the time that a member has been given to take and pass the Multistate Professional Responsibility Examination ("MPRE"). The requirement to take and pass the MPRE is associated with discipline in a previously decided matter.

Public Reproval
A censure or reprimand issued by the Supreme Court or the State Bar Court that is a matter of public record. No period of suspension is imposed. The reproval may be imposed with duties or conditions.

Reinstatement
Readmission by the Supreme Court to the practice of law and to membership in the State Bar of a former member who resigned or was disbarred. A reinstatement matter is a regulatory proceeding initiated by the filing of a Petition for Reinstatement in which the State Bar Court determines whether a resigned or disbarred member should be readmitted to membership. (*See also* Petition for Reinstatement.)

Remand for Hearing
An order by the Supreme Court remanding a proceeding back to the State Bar Court for rehearing. The Supreme Court may remand any disciplinary or regulatory proceeding.

Reproval
The lowest level of discipline imposed by the Supreme Court or State Bar Court. A reproval may be imposed with duties or conditions; however, suspension is not imposed. Reprovals can be either public or private.

Request for Further Proceedings
A request from a complainant after being advised that the complaint has been dismissed or the member has been admonished.

Resignation Tendered with Charges Pending
A written relinquishment of the right to practice law and resignation as a member of the State Bar by a member who is the subject of an investigation by the Office of the Chief Trial Counsel, a disciplinary proceeding under the Rules of Procedure of the State Bar, or a criminal charge or investigation. Supreme Court acceptance of a resignation is required to make it effective; however, as soon as a member submits a resignation in proper form, the member is transferred to inactive status and cannot practice law. An administrative case is opened in the State Bar Court when a member tenders a resignation with charges pending; however, no State Bar Court judicial action is required in the case.

Resignation Tendered without Charges Pending
A written relinquishment of the right to practice law and resignation as a member of the State Bar by a member who is not the subject of an investigation by the Office of the Chief Trial Counsel, a disciplinary proceeding under the Rules of Procedure of the State Bar, or a criminal charge or investigation.

Resource Letter
A letter from the Office of the Chief Trial Counsel to a member who probably violated, or potentially will violate, the Rules of Professional Conduct and/or the State Bar Act, where the violation is minimal in nature and would not lead to discipline of the member. The letter refers the member to various resources that may assist the member in avoiding problems and/or the filing of complaints against him or her in the future.

Restrict practice
A request received by the State Bar Court to restrict a member's practice for the purpose of protecting present and future clients pursuant to Business & Professions Code section 6007(h). Requests may include, but are not limited to, requests for restrictions as to the scope of the member's practice, the imposition of monetary accounting procedures and review of the member's performance by probation or other monitors. The court may grant or decline the request.

Rule 1-110
Rule 1-110 of the Rules of Professional Conduct requires a member to comply with conditions attached to public or private reprovals or other discipline administered by the State Bar. In a Rule 1-110 violation disciplinary proceeding, the State Bar Court determines whether a member failed to comply with rule 1-110.

Rule 9.20
Rule 9.20 of the California Rules of Court, in part, requires members who are suspended from the practice of law to notify their clients, co-counsel, opposing counsel and courts in which they frequently practice that they are suspended. In a Rule 9.20 violation proceeding, the State Bar Court determines whether a member violated a Supreme Court order to comply with rule 9.20. Prior to January 1, 2007, this rule was numbered rule 955.

Rule 955
See Rule 9.20.

Stipulation
An agreement between a member and the Office of the Chief Trial Counsel regarding a statement of facts, conclusions of law and the appropriate proposed disciplinary disposition. The stipulation is filed by the Office of the Chief Trial Counsel in the State Bar Court, which may accept, reject or, with the consent of the parties, order its modification.

Suspension
A disciplinary action that prohibits a member from practicing law or from holding himself or herself out as a lawyer for a period of time set by the California Supreme Court. A suspension may be either stayed or actual.

Suspension, Interim
The prohibition of a member from practicing law or from holding himself or herself out as a lawyer as a result of being convicted of a crime. An interim suspension order is disciplinary action in which the State Bar Court orders the interim suspension of a member. A State Bar Court order that lifts an interim suspension may also be referred to as an interim suspension order.

Suspension, Relief from Actual
A suspended member may file a request for relief from actual suspension with the State Bar Court. Pursuant to Standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct, the suspended member is required to prove his or her rehabilitation, present fitness to practice and present learning and ability in the law prior to returning to active status. The State Bar may grant or decline the requested relief. (*Compare* Petition for Reinstatement.)

Termination
A proceeding closed due to an external cause, such as death of the member, disbarment in a separate matter or resignation with charges pending.

Vacate Previous Order
A disciplinary action whereby the State Bar Court issues an order that vacates a significant order in a disciplinary proceeding.

Vacate Submission
A disciplinary action whereby the State Bar Court issues an order that vacates the submission of a matter for decision.

Withdrawal
In the context of a regulatory proceeding, a withdrawal disposition represents an order issued by the judge allowing the initiating party to withdraw the request to have their matter heard. This order terminates the case

Warning Letter
A letter from the Office of the Chief Trial Counsel to a member who violated the Rules of Professional Conduct and/or the State Bar Act, but the violation is minimal in nature, does not involve significant harm to the client or the public and does not involve the misappropriation of client funds. The letter explains that, in the exercise of the Office of the Chief Trial Counsel's prosecutorial discretion, the matter was closed without disciplinary action.

Writ of Review
A request that the Supreme Court review a State Bar Court proceeding filed by a party to a disciplinary proceeding. The Supreme Court can either grant or deny the request. The Supreme Court may also review the case on its own motion.