

Board of Professional Responsibility

43rd Annual Discipline Report Fiscal Year July 1, 2023 – June 30, 2024

Board of Professional Responsibility Organization and Composition

The Tennessee Supreme Court regulates and supervises the practice of law in Tennessee pursuant to Tennessee Supreme Court Rule 9. The Court appoints twelve members to the Board of Professional Responsibility (the Board) to effectuate Tenn. Sup. Ct. R. 9 and the Court's disciplinary enforcement.

The Board consists of nine (9) attorneys and three (3) public (non-attorney) members who serve three-year terms and geographically represent the entire state. In 2023-2024, Board members volunteered 1,081 hours and received no compensation for their service. Members of the Board include:

Jennifer S. Hagerman (Chair)
R. Culver Schmid (Vice-Chair)
Richard Briggs (Lay Member)
Ginger Wilson Buchanan
Jimmy Dunn
Stacey B. Edmonson
Charles K. Grant
Dr. Carol Johnson-Dean (Lay Member)
Jim Maddux (Lay Member)
Barbara Medley
Kirk Moore
Jonathan Steen

The Court appoints a Chief Disciplinary Counsel who reports to the Board. The Board also employs attorneys as Disciplinary Counsel and support staff to assist with attorney registration; consumer assistance; investigation and litigation. A staff directory is attached as Exhibit A.

District Committee Members

The Tennessee Supreme Court appoints attorneys to serve as district committee members from each disciplinary district in the state. In 2023-2024, 197 attorneys assisted the Court and the Board as district committee members reviewing Disciplinary Counsel's recommendations on investigative files and sitting on hearing panels conducting formal disciplinary charges. Of the 197 members, 140 reported volunteering 2,259 hours in 2023-2024 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.

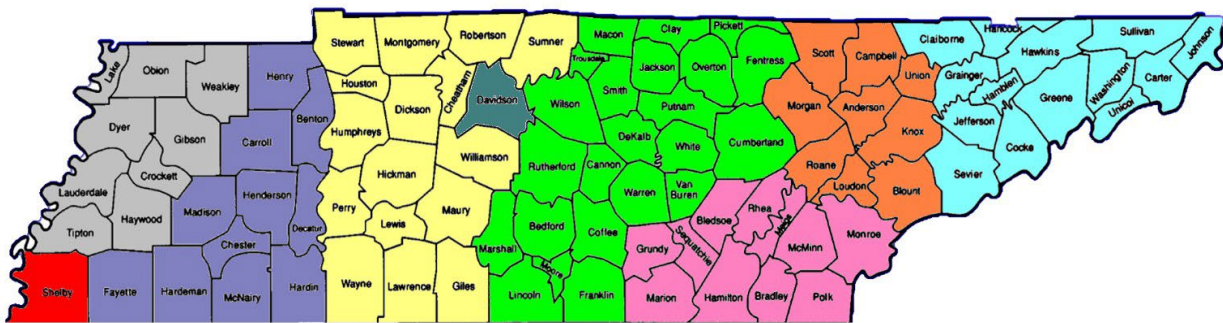
43rd Annual Discipline Report

Fiscal Year July 1, 2023 – June 30, 2024

Tennessee Attorney Information

The Board of Professional Responsibility provides an easy-to-use online registration system that allows lawyers to fulfill their annual registration requirements. Public registration information is displayed on the Board’s website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

Active Attorneys by Disciplinary District: 24,281*



- Disciplinary District 1: 1,044 Active TN attorneys
- Disciplinary District 2: 2,644 Active TN attorneys
- Disciplinary District 3: 1,615 Active TN attorneys
- Disciplinary District 4: 1,426 Active TN attorneys
- Disciplinary District 5: 6,192 Active TN attorneys
- Disciplinary District 6: 2,623 Active TN attorneys
- Disciplinary District 7: 507 Active TN attorneys
- Disciplinary District 8: 280 Active TN attorneys
- Disciplinary District 9: 3,393 Active TN attorneys
- *4,557 Out of State Active TN attorneys

Active Attorney Statistics:

- | | |
|--|---|
| <ul style="list-style-type: none"> ▪ Years Licensed: <ul style="list-style-type: none"> <5 yrs: 17% 6-15 yrs: 28% 16-25 yrs: 22% 26-35 yrs: 16% 36-45 yrs: 10% 46+ yrs: 7% ▪ Gender: <ul style="list-style-type: none"> Male: 61% Female: 38% Unreported: 1% | <ul style="list-style-type: none"> • Age: <ul style="list-style-type: none"> 21-29 yrs: 5% 30-39 yrs: 20% 40-49 yrs: 25% 50-59 yrs: 22% 60-69 yrs: 16% 70+ yrs: 12% • In-state Attorneys: 81% • Out-of-state Attorneys: 19% |
|--|---|

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

Inactive Attorneys

Pursuant to Tennessee Supreme Court Rule 9, Section 10.3, inactive attorneys include attorneys serving as justice, judge or magistrate of a court of the United States of America or who serve in any federal office in which the attorney is prohibited by federal law from engaging in the practice of law; retired attorneys; attorneys on temporary duty with the armed forces; faculty members of Tennessee law schools who do not practice law; and attorneys not engaged in the practice of law in Tennessee. In 2023-2024, 6,188 attorneys on inactive status were registered with the Board of Professional Responsibility.

▪ **Non-disciplinary/Administrative Suspensions:**

Pursuant to Supreme Court Rules, the Supreme Court suspends attorneys who fail to pay their annual fee (Tenn. Sup. Ct. R. 9 § 10.6); fail to complete annual continuing legal education requirements (Tenn. Sup. Ct. R. 21 § 7); fail to comply with Interest on Lawyers Trust Account requirements (Tenn. Sup. Ct. R. 43 § 15); fail to pay the Tennessee professional privilege tax (Tenn. Sup. Ct. R. 9 § 26); or default on student loans (Tenn. Sup. Ct. R. 9 § 37). No attorney suspended pursuant to these Rules may resume practice until reinstated by Order of the Supreme Court. Attorneys were administratively suspended during fiscal year 2023-2024 as follows:

Non-payment of Annual Fee:	219
Continuing Legal Education non-compliance:	145
Interest on Lawyer's Trust Accounts non-compliance:	137
Professional Privilege Tax non-compliance:	60
Default on a Student Loan:	<u>0</u>
Total:	561

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

Assistance, Investigation and Prosecution

▪ **Trust Account Overdraft Notifications**

Pursuant to Tennessee Supreme Court Rule 9, Section 35.1(b), financial institutions report to the Board whenever any properly payable instrument is presented against an attorney trust account containing insufficient funds. After receiving notification of an overdraft, Board Staff request financial information and explanation from the attorney.

<u>Total Notifications</u>	83
----------------------------	----

Actions Taken

Referred to Investigations	14
Resolved without Investigation	58
In Progress	11

▪ **Consumer Assistance Program (CAP) and Investigation**

Non-frivolous complaints against attorneys submitted by clients, lawyers, judges and the public are referred to the Board’s Consumer Assistance Program (CAP) for assistance or opened and assigned to Disciplinary Counsel for investigation. CAP answers questions, provides information, informally mediates disputes, and refers matters to Disciplinary Counsel for investigation.

Disciplinary Counsel investigate complaints against attorneys alleging unethical conduct. After investigation, Disciplinary Counsel recommend dismissal of the complaint if there is insufficient proof of a violation of the Rules of Professional Conduct. If the investigated complaint reflects a violation of the Rules of Professional Conduct, Disciplinary Counsel recommend diversion, private informal admonition, private reprimand, public censure, or the filing of formal disciplinary charges. A district committee member reviews and approves or disapproves Disciplinary Counsel’s recommendation for dismissal, diversion, and private informal admonition. The Board of Professional Responsibility reviews and approves or disapproves Disciplinary Counsel’s recommendation for private reprimand, public censure, and the filing of formal disciplinary charges.

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

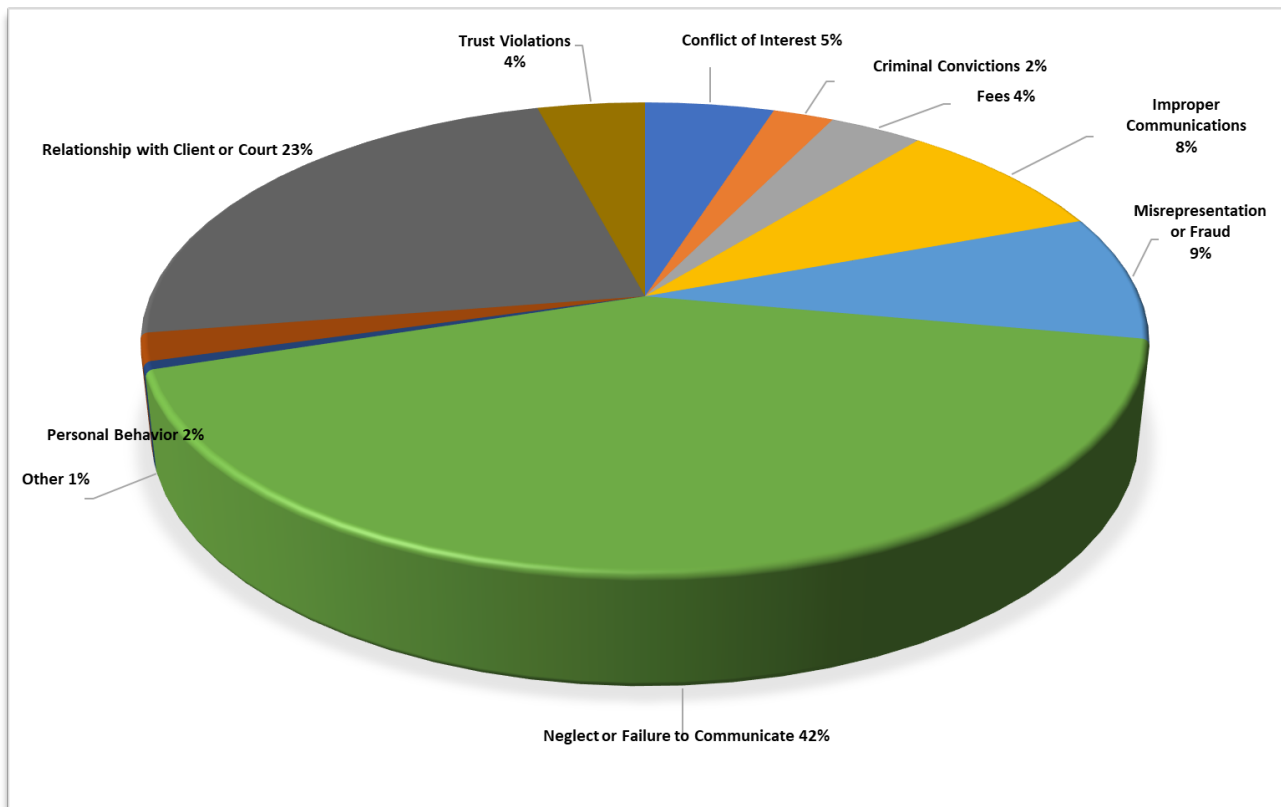
A. Complaints Received/Previously Active

Requests for Investigations	2,367
Requests for Assistance	1,292
 Total:	 3,659

B. Complaints Disposition

Administratively Dismissed	1,371
Transferred to Investigations	802
Transferred to CAP	1,424
Duplicates/Deceased/Other	14
 Total:	 3,611

C. Nature of Complaints



43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

D. Investigative Caseload:

Investigations Opened	819
Pending Investigations from previous fiscal year	<u>518</u>
Total:	1,337

E. Investigative Disposition:

Investigative Dismissals	521
Diversion	51
Private Informal Admonition	36
Private Reprimand	11
Informal Public Censure	41
Transferred to Litigation	100
Placed on Retired - Disability Status	18
Other ¹ :	<u>11</u>
Total:	789

- **Formal Disciplinary Proceedings:**

After the Board of Professional Responsibility authorizes Disciplinary Counsel to file formal disciplinary charges (i.e., a petition for discipline) against an attorney, the matter is assigned to three district committee members who constitute a hearing panel. The Hearing Panel sets the disciplinary proceeding for a hearing which is open to the public unless a protective order has been entered. The Tennessee Rules of Evidence and Rules of Civil Procedure apply unless Tennessee Supreme Court Rule 9 provides otherwise.

The Board of Professional Responsibility must prove an attorney's ethical misconduct by a preponderance of the evidence. Hearing Panels may recommend dismissal, public censure, suspension or disbarment.

¹ Abated by death; complaint withdrawn; duplicate file.

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

A. Formal Disciplinary Caseload

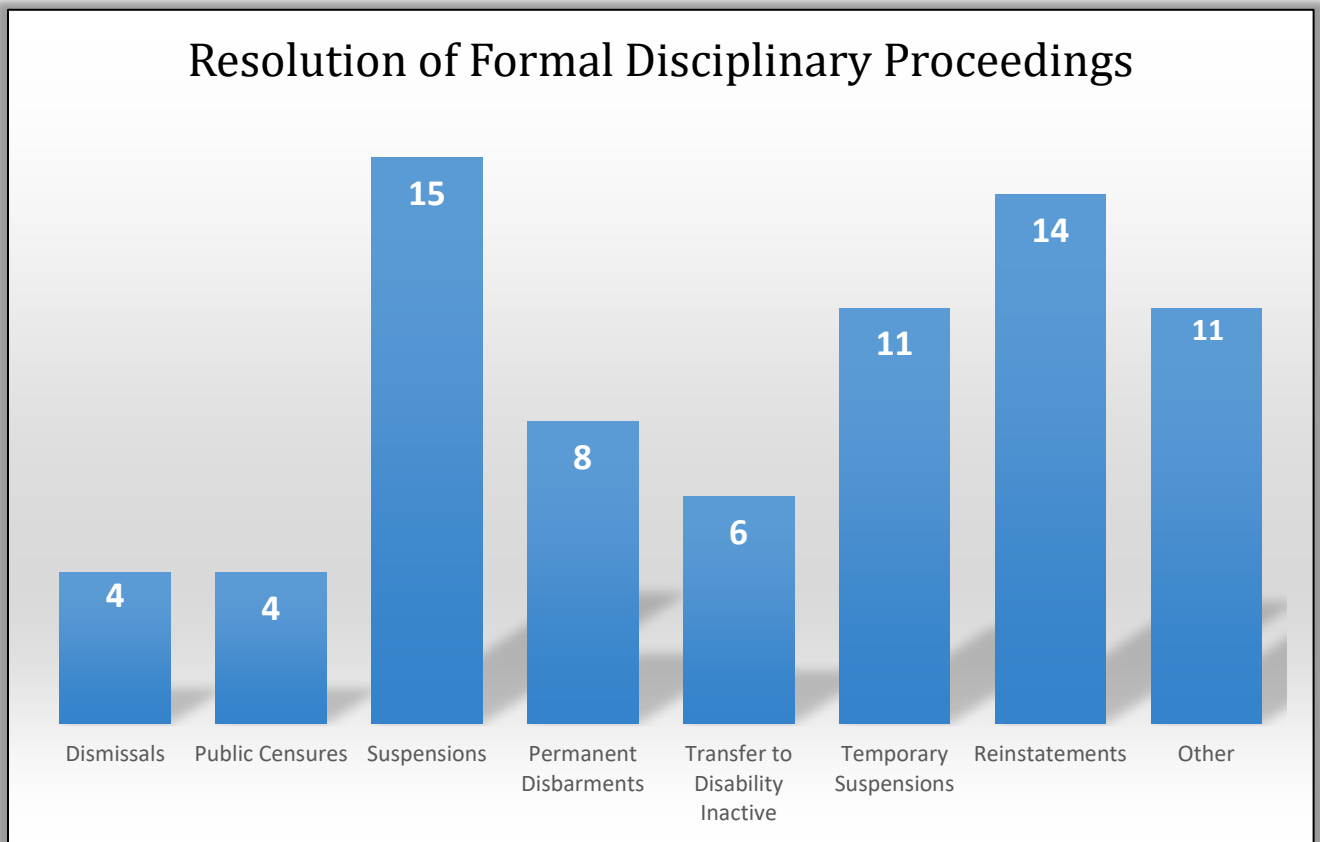
Formal cases filed during Fiscal Year:	62
Formal cases pending at beginning of Fiscal Year:	81
Total formal proceedings:	143
Public hearings conducted in Fiscal Year:	34

B. Formal Disciplinary Proceedings Disposition:

Dismissals:	4
Public Censures:	4
Suspensions:	15
Permanent Disbarments:	8
Transfer to Disability Inactive:	6
Temporary Suspensions:	11
Reinstatements:	14
Other ² :	<u>11</u>
Total:	73

² Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024



43rd Annual Discipline Report

Fiscal Year July 1, 2023 – June 30, 2024

▪ **Education and Information:**

The Board issues Formal Ethics Opinions and staff respond to informal ethics questions by phone and internet. Disciplinary Counsel present continuing legal education seminars and workshops, publish *Board Notes*, a bi-annual newsletter, and update the Board’s website with rule changes, disciplinary decisions and news for attorneys, judges and the public.

A. Ethics Opinions:

i. Informal Opinions

Ethics Counsel and Disciplinary Counsel responded to a total of 2,016 phone and internet inquiries from attorneys seeking ethical guidance.³

ii. Formal Opinions

2023-F-169: Departing lawyers and their law firms have an ethical duty to protect client interests when a lawyer leaves a law firm. The departure of a lawyer who represents a client or is responsible for the law firm’s delivery of legal services currently on a matter is information that may affect the status of a client’s matter and require the client to make a decision regarding the representation as set forth in RPC 1.4. A departing lawyer and the law firm have an ethical duty to inform the client of the lawyer’s departure. Because a client has the right to select counsel of the client’s choice, the fact that the lawyer is leaving and where the lawyer will ultimately practice is information that will aid the client in determining whether to stay with the law firm, leave with the lawyer or seek legal representation elsewhere. Notice should be given to the client by the departing lawyer, the law firm, or preferably, jointly by the law firm and the lawyer.

2023-F-170: In light of changes in the Rules, opinions from other jurisdictions, the Tennessee Supreme Court’s revision of the lawyer advertising rules, and the evolution in the use of credit cards, the Board of Professional Responsibility vacates Formal Ethics Opinions 82-F-28 and 82-F-28(a) and updates guidelines for a lawyer’s acceptance of credit card payments and the use of payment processing services. A lawyer may accept credit cards or payment processing services, such as PayPal, Venmo or other like payment processing services, from

³ Tennessee attorneys may submit ethics inquiries to the Board by calling 615-361-7500, ext. 212, or via the Board’s website at www.tbpr.org.

43rd Annual Discipline Report Fiscal Year July 1, 2023 – June 30, 2024

a client for payment of fees, including unearned fees (commonly referred to as retainer fees), so long as the lawyer ensures compliance with the applicable Tennessee Rules of Professional Conduct regarding client confidentiality, how credit card transaction fees will be treated, and the security of client trust funds.

B. Continuing Legal Education (CLE) Presentations:

Between July 1, 2023, and June 30, 2024, Disciplinary Counsel presented thirty-two (32) CLE seminars, attended by approximately 1,841 attorneys.

C. Board Notes:

In 2023-2024, the Board emailed both Fall and Spring issues of *Board Notes*, the Board's semi-annual newsletter to all attorneys and judges and published it on the Board's website.

D. Workshops:

- a. The Board of Professional Responsibility hosted its annual Ethics Workshop on November 2, 2023, with 803 attorneys attending both virtually and in person. This year's Ethics Workshop is scheduled for November 1, 2024.
- b. The Board of Professional Responsibility has offered two trust account workshops in 2023/2024, with 354 attorneys attending both virtually and in person. The next trust account workshop will be held Wednesday, December 4, 2024. Tickets will go on sale at the end of September.

E. Tennessee's Proactive Management-Based Regulation (Voluntary Self-Assessment):

Tennessee's Proactive Management-Based Regulation (PMBR) program is an interactive law office management self-assessment course. The ten self-assessments are designed to mitigate risk, elevate competence, and enhance the quality of legal services delivered to clients. The goal of the program is to prevent problems within a law firm before they arise, enabling attorneys to spend more time on cases. Attorneys receive 3 Dual CLE Credits after completion of the course. The ten self-assessments are as follows:

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

1. Developing Competent Practices
2. Communicating in an Effective, Timely, Professional Manner
3. Ensuring That Confidentiality Requirements Are Met
4. Avoiding Conflicts of Interest
5. Retaining and Managing Secure Files
6. Managing the Law Firm/Legal Entity and Staff
7. Charging Appropriate Fees and Making Appropriate Disbursements
8. Ensuring the Use of Reliable Trust Account Practices
9. Access To Justice and Client Development
10. Promoting Wellness

Since the implementation of the course in August 2019, 1,460 Tennessee attorneys have completed the self-assessment, with 236 completing the course in 2023-2024.

Access the Tennessee PMBR program by following this link: <http://tbpr.prolearn.io>.

43rd Annual Discipline Report
Fiscal Year July 1, 2023 – June 30, 2024

Board of Professional Responsibility
Staff Directory

Name	Title	Extension
Doug Bergeron	Disciplinary Counsel	247
Melissa Boyd	Executive Assistant	204
Julie Brown	Administrative Payables Clerk	215
Laura Chastain	Ethics Counsel	212
Steve Christopher	Deputy Chief Disciplinary Counsel - Investigations	203
Jesús Del Campo	Legal Assistant - Litigation	249
Stephanie Dobis	Lead Legal Assistant	240
Dana Dunn	Assistant Director	209
Eric Fuller	Disciplinary Counsel	243
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Assistant-Registration/ Scanning	202
Kelly Heflin	Legal Assistant - Investigations	242
McKenzie Hollars	CAP Legal Assistant	255
Maureen Hughes	Disciplinary Counsel	234
Katherine Jennings	Executive Secretary	206
Molly Liens	Registration Manager	220
Carol Marsh	Receptionist	200
Jim W. Milam	Disciplinary Counsel	245
Heather Piper	Disciplinary Counsel	246
Nicholas Price	CAP Legal Assistant (Intake)	257
Tony Pros	Network Administrator	205
Liz Radford	Legal Assistant – Investigations and Litigation	238
Beverly Rooks	Lead Legal Assistant – Investigations	233
Beverly Sharpe	Director of Consumer Assistance Program	226
Pennye Sisk	Paralegal	248
Eileen Burkhalter Smith	Disciplinary Counsel	210
Candis Stigall	Case Manager	229
Tiffany Tant-Shafer	Disciplinary Counsel	235
Logan Thornton	Support Technician	207
Suzie Thurber	Administrative Receivables Clerk	241
Cheri Weaver	CAP Paralegal	208
Lani White	Registration Assistant II	227
Russ Willis	Deputy Chief Disciplinary Counsel - Litigation	236

Exhibit A

43rd Annual Discipline Report

Fiscal Year July 1, 2023 – June 30, 2024

District Committee Member Roster

District	First Name	Last Name	District	First Name	Last Name	District	First Name	Last Name
1	Dan E.	Armstrong	4	Blake J.	Fitzpatrick	6	David R.	O'Neil
1	Jeremy D.	Ball	4	Michael R.	Gaiamo	6	James Y.	Ross, Sr.
1	Melissia	Ball	4	Theodore W.	Goodman	6	Raymond	Runyon
1	Guy W.	Blackwell	4	Mary Beth	Hagan	6	Michael L.	Russell
1	Jeffrey A.	Cobble	4	Moody Wesley	Hall, IV	6	Margaret F.	Sagi
1	McKenna L. (Ms.)	Cox	4	Trisha L.	Henegar	6	M. Stuart	Saylor
1	Erwin (Lynn)	Dougherty	4	W. Garrett	Honea	6	Rodger D.	Waynick
1	Andrew E.	Farmer	4	Rachel M.	Moses	6	Beverly	White
1	Jeffery S.	Greene	4	Daniel	Rader, IV	6	Timothy	Wills
1	Scott D.	Hall	4	Thomas S.	Santel	7	Andy	Anderson
1	William B.	Harper	4	Ginger Bobo	Shofner	7	Sara E.	Barnett
1	William B.	Marsh	4	Donna S.	Simpson	7	Shaun	Brown
1	Cecil	Mills	4	Cecilia W.	Spivy	7	Lisa	Houston
1	Nikki C.	Pierce	4	Megan K.	Trott	7	Robert A.	Jowers
1	William O.	Shults	4	Willie F.	Wallace, III	7	Lisa	Miller
1	Barry	Staubus	5	Elaina	Al-Nimri	7	(William) Josh	Morrow
1	Jeffrey L.	Stern	5	Taylor J.	Askew	7	Ryan K.	Porter
1	Denise S.	Terry	5	Kevin E.	Baltz	7	Michelle	Pugh
2	Robyn J.	Askew	5	Adam	Barber	7	Vincent	Seiler
2	Maha (Ms.)	Ayesh	5	Keene W.	Bartley	7	Terica	Smith
2	Edward U.	Babb	5	Robert E.	Boston	7	Neil	Thompson
2	Heidi	Barcus	5	Jad A.	Duncan	7	Joe	VanDyke
2	Amanda M.	Busby	5	Jeff H.	Gibson	8	Dean	Gedmon
2	Loretta G.	Cravens	5	Matthew	Harris	8	Rachele D.	Gibson
2	Nicholas W.	Diegel	5	William J.	Haynes	8	Stephen L.	Hughes
2	Shannon (Ms.)	Egle	5	Candi R.	Henry	8	Will Taylor	Hughes
2	Steve	Erdely	5	Adam	Hill	8	Jeff	Lay
2	Matthew A.	Grossman	5	Lucas	Jerkins	8	Julie W.	Palmer
2	Lisa J.	Hall	5	John D.	Kitch	8	David A.	Stowers
2	Josh	Hedrick	5	Raymond	Leathers	8	Joseph E.	Tubbs
2	Howard B.	Jackson	5	Russell B.	Morgan	8	Allison S.	Whitledge
2	Michael S	Kelley	5	Anthony (Tony)	Orlandi	9	Jeremy G.	Alpert
2	Michael J.	King	5	Julie	Peak	9	Bryce W.	Ashby
2	Gregory C.	Logue	5	Brant	Phillips	9	Taurus M.	Bailey
2	Mary Elizabeth	Maddox	5	Lee (Mr.)	Pope	9	Lucie K.	Brackin
2	Chris	McCarty	5	Daniel H.	Puryear	9	William R.	Bradley, Jr.
2	Carl P.	McDonald	5	Kristina A.	Reliford	9	Christopher S.	Campbell
2	Ben	Mullins	5	Rita	Roberts-Turner	9	S. Keenan	Carter
2	James F.	Parker	5	Peter C.	Robison	9	Kevin E.	Childress
2	P. Edward	Pratt	5	Michael J.	Sandler, Sr.	9	Brian	Coleman
2	Wayne A.	Ritchie, II	5	W. Stuart	Scott	9	David M.	Cook
2	W. Edward	Shipe	5	Siew-Ling (Sue)	Shea	9	Anne B.	Davis
2	Russell E.	Stair	5	Liz	Sitgreaves	9	Amber D.	Floyd
2	Garrett P.	Swartwood	5	Jeffrey	Spark	9	Malcolm B.	Futhey, III
2	Lynn	Tarpy	5	M. Clark	Spoden	9	Nicole	Grida
2	Brian	Wanamaker	5	Taylor C. (Mr.)	Sutherland	9	Greg	Grisham
2	Shelly	Wilson	5	Luther	Wright, Jr.	9	Jonathan C.	Hancock
3	Peter	Alliman	6	Casey	Ashworth	9	Jennifer S.	Harrison
3	Ariel	Anthony	6	Evan P.	Baddour	9	Rebecca	Hinds
3	Larry	Cash	6	Richard	Boehms	9	Lauren	Holloway
3	Sam D.	Elliott	6	Jessica N.	Bome	9	Earl W.	Houston, II
3	Rachel	Fisher-Queen	6	David	Christensen	9	Robbin (Ms.)	Hutton
3	Jeffrey	Maddux	6	C. Diane	Crosier	9	Adam	Johnson
3	Doris	Matthews	6	Marci McClellan	Curry	9	Tressa V.	Johnson
3	Laurie Harrod	McNulty	6	Thomas B.	Dean	9	E. Patrick (Pat)	Lancaster
3	Jennifer A.	Mitchell	6	Hilary	Duke	9	Zachary	Moore
3	Lance W.	Pope	6	James L.	Elkins	9	Will	Perry
3	Leah B.	Sauceman	6	Mary Katharine	Evins	9	Steve	Ragland
3	Carmen (Ms.)	Ware	6	Jennifer F.	Franks	9	Marc	Reisman
3	Ronald D.	Wells	6	David R.	Grimmett	9	Holly J.	Renken
3	Elizabeth L	Williams	6	Cameron R.	Hoffmeyer	9	Zayid	Saleem
4	William "Howie"	Acuff	6	Patricia	Holder	9	Robert L.J.	Spence, Jr.
4	Philip Duane	Burnett	6	Eric	Larsen	9	Emmett L.	Whitwell