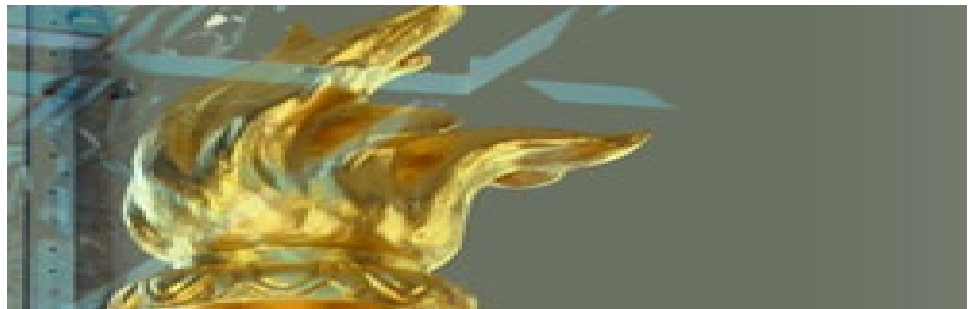


BOARD NOTES

published by the
Board of Professional Responsibility
of the
Supreme Court of Tennessee

Fall 2024



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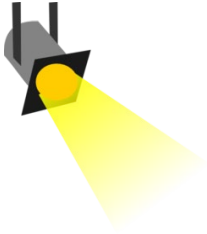
Greeting from Justice Jeffrey Bivins

Supreme Court Liaison, Board of Professional Responsibility

It is a privilege for me to return as the Tennessee Supreme Court’s liaison to the Board of Professional Responsibility. Though several years have passed since I last served in this role, one constant remains: the unwavering dedication of the staff and board members of the Tennessee Board of Professional Responsibility. Through providing ethics opinions, responding to ethics inquires, conducting ethics seminars, and publishing this newsletter, the Board serves as a valuable resource for Tennessee lawyers, judges, and the public. Their work is vital in upholding the integrity of our legal system.

I’d like to thank Justice Roger Page for his service as liaison to the Board over the last year. His involvement with the Board is one of the many contributions he made to Tennessee’s justice system during his eight years on the Tennessee Supreme Court. We also congratulate him on his well-deserved retirement from the Court.

The Board and I hope that this edition of *Board Notes* will provide helpful insights to you as we all work together to advance justice in Tennessee. Thank you for your continued dedication to our profession and the public.



Tennessee Supreme Court Approves Adoption of the “NextGen” Bar Examination

Lisa Perlen, Executive Director
Tennessee Board of Law Examiners

In April, 2024, the Tennessee Supreme Court approved adoption of the updated bar examination, the “NextGen Bar Exam,” beginning with the July 2027 administration of the examination.¹ This article will provide some history on the bar examination in Tennessee, the Tennessee Supreme Court’s adoption of examination materials developed by the National Conference of Bar Examiners (“NCBE”), the development of the NextGen Bar Exam, and what adoption of the NextGen Bar Exam in Tennessee means.

The NCBE was established in 1931 with the goal of “increasing efficiency of the state bar admissions boards.” The NCBE has long provided research, character and fitness investigation services, and training and support to jurisdictions. In 1969, the NCBE established a committee to study the bar examining process, including the “possibility of creating a uniform multiple-choice bar examination that could help reduce the grading burden for jurisdictions.”² The NCBE Board of Managers, in 1970, established a committee to begin development of a “six-hour multiple-choice bar examination” with input from bar examiners and law school deans and faculty on content and drafting.³

The first Multistate Bar Examination (MBE), consisting of 200 multiple-choice questions covering Contracts, Criminal Law, Evidence, Real Property, and Torts, was administered in 1972 to 4,955 examinees from 19 jurisdictions, including Tennessee.⁴ In 1982, 10 years after the first administration of the MBE, the NCBE completed a content validity study, with findings that were “strongly supportive of the structure, format, and content of the MBE . . .”⁵ The content validity

¹ The Supreme Court Press release can be found here: <https://www.tncourts.gov/press/2024/04/22/tennessee-supreme-court-adopts-updated-bar-examination>.

² “NCBE Testing Milestones,” <https://nextgenbarexam.ncbex.org/wp-content/uploads/NCBE-Testing-Program-Timeline.pdf>.

³ *Id.*

⁴ *The Bar Examiner* print edition, Fall 2022 (Vol. 91, No. 3), pp. 7–12. The article can be found online at <https://thebarexaminer.ncbex.org/article/fall-2022/celebrating-50-years-mbe/>.

⁵ *Id.*

study had been completed every ten years. By 1997, 52 U.S. jurisdictions were using the MBE as part of their state bar examination.

Over the years, the subjects tested on the MBE changed, the process of scoring the MBE evolved, and the question development process progressed to include pretesting of items, all to adapt to the changing landscape of standardized testing. Pretesting MBE items by actual bar examinees is a critical component of test development as it allows the psychometricians (the scientists who design, develop, study, analyze, and validate assessments such as those used for the bar examination) to determine if the pretested item is an appropriate measure of performance of entry-level lawyers.⁶

In addition to the MBE, the NCBE developed the Multistate Essay Examination (“MEE”), first administered in six jurisdictions in 1988, and the Multistate Performance Test (MPT), first used by four jurisdictions in 1997.⁷

Tennessee continued to use the MBE with 12 locally developed essay questions until 2011, when one MPT question was added to the Tennessee bar examination in place of three of the local essay questions. At the same time, Tennessee began scaling the written components of the examination to the MBE score to establish a single score.⁸

In April 2018, the Tennessee Supreme Court adopted the Uniform Bar Examination (“UBE”), joining 31 other jurisdictions in administering the MBE, MPT, and MEE so that the resulting score could be transferred to other jurisdictions. The first UBE administration in Tennessee was in February 2019. At the same time, the Board of Law Examiners developed the Tennessee Law Course for all new admittees, including those admitted by examination, comity, or transferred UBE score, to provide a course of study in Tennessee-specific law and practice. Adoption of the UBE and the Tennessee Law Course provide the necessary balance to ensure that

⁶ Beth E. Donahue, “[Recent Changes in NCBE’s Multiple-Choice Examination Programs](#),” 77(3) *The Bar Examiner* print edition, 25–30 (August 2008).

⁷ For the current examination, the MEE consists of 6 essay questions given in a 3-hour period and answered based on generally accepted fundamental legal principles. The MPT consists of a File and a Library. The File contains the instructions for the task the examinee must complete and factual information about the case, both relevant and not relevant. The Library contains legal authorities, again relevant and not relevant. Cases may be real, modified, or created for the examination. Examinees are given 2 MPT items in a 3-hour period.

⁸ For more on score scaling, please see Rosemary Resehtar, *The Bar Examiner* print edition, Summer 2023 (Vol. 92, No. 2), pp. 35–36. The article can be found online at <https://thebarexaminer.ncbex.org/article/summer-2023/the-testing-column-assessment-scales-what-they-are-and-what-goes-into-them/>.

members of the public are represented by qualified attorneys.⁹ As of the end of 2023, 1,453 UBE scores have been transferred to or from Tennessee.¹⁰

In 2018, with many professions changing their professional examination models, the NCBE Board of Trustees established the Testing Task Force to undertake a multi-year study “to ensure that the bar examination continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in the 21st century.” The Testing Task Force engaged in listening sessions with key stakeholders and practice analysis and, using the information compiled from the listening sessions and practice analysis, made recommendations regarding exam content and test design. The research was “undertaken to identify the legal knowledge and skills entry-level attorneys are expected to have or learn within the first three years of practice, and to determine whether, how, and when those identified competencies should be assessed on a bar examination.”¹¹ Ultimately, the Testing Task Force recommended a modified bar examination with integrated question sets that will test a broad range of foundational lawyering skills and that will balance the skills and knowledge needed in litigation and transactional legal practice.

Since the Report of the Testing Task Force was released in April 2021, the NCBE has been actively engaged in developing the NextGen Bar Exam, in conjunction with law school faculty, bar examiners, practicing attorneys, and other professionals. Foundational Concepts and Principles and Foundational Skills have been published, with preliminary Content Scope Outlines published in early 2022. Foundational concepts and principles include civil procedure, contract law, evidence, torts, business associations, constitutional law, real property and, beginning in July 2028, family law. Foundational lawyering skills have been identified as legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship, and management. Links to the Content Scope and the preliminary outlines can be found at <https://nextgenbarexam.ncbex.org/reports/content-scope/>.

To date, the NCBE has conducted pilot testing and field testing, focused on development of

⁹ The Supreme Court Press release can be found here: <https://tncourts.gov/news/2018/04/18/tennessee-adopts-uniform-bar-exam>.

¹⁰ <https://thebarexaminer.ncbex.org/statistics/>. Note that all applicants for admission must meet the character and fitness standard found in Tenn. Sup. Ct. R. 7, § 6.01, which includes a background investigation.

¹¹ “Foreword of the Testing Task Force Chair,” <https://nextgenbarexam.ncbex.org/reports/final-report-of-the-ttf/>. The full report of the Testing Task Force was released in April 2021.

new question formats, exam delivery, grading rubrics, and initial performance statistics, as well as operational constructs. From this research, the NextGen Bar Exam has been developed as a computer-based, in-person administration, given over 1.5 days in three-hour segments with a lunch break between the two segments on day one.

The exam will employ a mix of multiple-choice and other question types that can be machine scored, and constructed-response questions that will be graded by local graders, as MEE and MPT items are graded currently. Approximately 40% of the exam time will consist of stand-alone multiple-choice questions with four to six answer options and one or more correct answers. The NextGen Bar Exam will include use of “Integrated Questions Sets” which use a common fact scenario and, in some instances, legal resources and/or supplemental documents, as the basis for a mix of multiple-choice and short answer questions, and may be focused on foundational skills as well as doctrinal law. The integrated question sets will make up almost 25% of the exam content. The balance of the NextGen Bar Exam will be devoted to performance tasks similar to the 90-minute MPT items used with the current examination. Sample questions can be found at <https://nextgenbarexam.ncbex.org/nextgen-sample-questions/>.

In late October 2024, in collaboration with jurisdictions across the country, the NCBE will conduct prototype testing, a large-scale administration of the full length, 9-hour NextGen Bar Exam to examinees who recently completed the July 2024 examination.¹² The prototype examinees are first time or re-examination applicants, and may or may not have passed the July 2024 exam.¹³ Testing will be conducted under actual bar exam testing conditions. The data collected from the prototype test will continue to be used to generate overall performance data, as well as other measures. The performance data will be used by jurisdictions to support standard setting i.e., establishing the score an examinee must attain to be successful on the NextGen Bar Exam in the jurisdiction.

The first administration of the NextGen Bar Exam will be in July 2026. The NCBE, in partnership with AccessLex, will produce study aids for the NextGen Bar Exam prior to the first administration. Tennessee’s first administration of the NextGen Bar Exam will be in July 2027. The current bar exam consisting of the MBE, MPT, and MEE will be discontinued for all

¹² Some jurisdictions have been designated to provide extended time testing for examinees who were given extra time to take the test due to a disability in compliance with the ADA.

¹³ Tennessee Bar Examination results will be released on October 11, 2024. The prototype volunteers have already been selected.

jurisdictions after the February 2028 examination.

Since 1972, the NCBE has provided Tennessee with statistically reliable exam materials that are valid in the context of testing entry-level lawyers. Every ten years since the first administration of the MBE the NCBE has conducted content validity studies, a hallmark of professional licensing examinations. Additionally, the NCBE continues to pre-test every item on the examination to validate that performance on the item is of the appropriate rigor to measure competency of entry-level lawyers. By adopting the NextGen Bar Exam, Tennessee will continue to offer a reliable licensing exam that consistently and validly measures competence of entry-level lawyers, that protects the public and the system of justice, and that allows examinees to earn a portable examination score to be used for admission in multiple jurisdictions.

For more information on the NextGen Bar Exam, please visit, <https://nextgenbarexam.ncbex.org/>.

The Danger of Generative Artificial Intelligence Hallucinations in Legal Practice

Steven J. Christopher¹

The integration of artificial intelligence tools into law practice is resulting in significant changes in the provision of legal services. While all new technologies can alter the nature of legal services, legal commentators have noted that artificial intelligence is in the process of creating changes in the legal industry that are revolutionary.²

On July 29, 2024, the American Bar Association’s Standing Committee on Ethics and Professional Responsibility (hereinafter, the “Committee”) published Formal Ethics Opinion 512 to provide guidance about the ethical issues that may arise in the use of Generative Artificial Intelligence (hereinafter, “GAI”).³ The ethical implications of GAI technology in law practice has also been recently addressed by a number of state bar authorities and other legal commentators.⁴

GAI is a subset of artificial intelligence that creates new content based upon patterns from existing data sets using generative models. GAI applications used in legal practice principally involve use of a Large Language Model (hereinafter, “LLM”).⁵ An LLM provides a basis for natural language processing tasks through employment of a deep learning algorithm using a public or proprietary dataset.⁶

¹ Deputy Chief Disciplinary Counsel of Investigations at the Tennessee Board of Professional Responsibility of the Supreme Court of Tennessee.

² Julie Sobowale, How Artificial Intelligence Is Transforming the Legal Profession, ABA JOURNAL (April 1, 2016).

³ ABA Formal Op. 512 (July 29, 2024). Some of the principal ethical issues identified by the Committee in the context of GAI tools include competence, communication, confidentiality, managerial obligations, and candor to the tribunal.

⁴ See, e.g., Florida Bar Ethics Op. 24-1, January 19, 2024; D.C. BAR ETHICS OP. 388; Cheryl Miller; California Bar Adopts First-of-Its-Kind Guidance on AI for Attorneys, Law.Com (Nov. 16, 2023), available at <https://www.law.com/therecorder/2023/11/16/california-bar-adopts-first-of-its-kind-guidance-on-ai-for-attorneys/>.

⁵ Maura R. Grossman, et al., The GPT Judge: Justice in a Generative AI World, 23 DUKE L.& TECH. REV. 1, at 7,11 (December 1, 2023).

⁶ Id.

The overriding conclusion reached by the Committee and other legal commentators is that GAI technology can be a significant asset to law practice when used correctly, while acknowledging that application of GAI tools raises potential ethical concerns.⁷ Like most emerging technologies, GAI can potentially improve the provision of legal services but must be evaluated in light of the lawyers' ethical obligations.

This article will focus upon one of the problems identified by the Committee and other legal authorities in the use of GAI technology in the legal field: the danger of an attorney's reliance on case citations and other legal authorities generated through a GAI LLM based tool that appear authentic but are fictitious. This phenomenon is referred to as a "GAI hallucination." As the purpose of this article is to identify one of the potential problems involved in the application of GAI technology, the potential functional uses of GAI technology in law practice will not be discussed herein. The limited scope of the article should not be construed to imply a conclusion contrary to the Committee or other legal commentators that GAI technology has the propensity to improve the provision of legal services if used in a manner consistent with an attorney's ethical obligations.

GAI hallucinations arise out of the inherent central purpose of LLM based GAI tools to draw upon an existing dataset to produce new content.⁸ GAI products are not intended to accurately evaluate the veracity or accuracy of content of the information in the dataset, but instead to generate new data through interface with the existing dataset. Due to this proclivity of LLM based GAI data generation, results may arise that appear to be accurate but are entirely fictitious.

⁷ Id.

⁸ Id. at 10.

Lawyers Sanctioned for GAI Hallucinations

Lawyers have recently been sanctioned for reliance upon fictitious legal authorities cited in court pleadings that were revealed to be GAI hallucinations. This conduct has been the subject of significant media exposure.⁹ This article will address two representative cases, Roberto Mata v. Avianca, Inc., and Minhe Park v. David Dennis Kim.¹⁰ While these two cases involved courts' analysis pursuant to Rule 11 of the Federal Rules of Civil Procedure (hereinafter, Rule 11")¹¹ rather than a jurisdiction's ethical rules, conduct involving the use of GAI hallucinations will be considered within the context of Tennessee's ethical rules.¹²

In Mata, the plaintiff originally filed suit in New York state court on February 2, 2022, asserting personal injury claims.¹³ Defense counsel removed the action to the United States District Court for the Southern District of New York (hereinafter, the "Southern District").¹⁴ Following removal, defense counsel moved for dismissal on January 13, 2023, alleging that the plaintiff's claims were time barred.

⁹ See, e.g., Benjamin, Weiser Here's What Happens When Your Lawyer Uses ChatGPT, NEW YORK TIMES, May 27, 2023; Matt Novak, Lawyer Uses ChatGPT in Federal Court and it Goes Horribly Wrong, FORBES, May 27, 2023; Sara Merken, Lawyer who cited cases concocted by AI asks Judge to Spare Sanctions, REUTERS, June 8, 2023.

¹⁰ For additional cases relating to findings that non-existent cases have been used using a GAI tool, see Isatou Dukuray v. Experian Information Solutions, 23 Civ. 9043 (AT)(GS), 2024 WL 3812259 (S.D.N.Y. July 26, 2024)(pro se litigant cautioned but not sanctioned for use of fictitious cases obtained through GAI tool); Karen Iovino v. Michael Stapleton Associates, LTD., Civil Action No. 5:21-cv-00064, 2024 WL 352170 (W.D. Va. July 24, 2024)(show cause order issued against attorneys for consideration of sanctions due to use of fictitious cases obtained through GAI tool); Molly Kruse v. Jonathan R. Karlen, 692 S.W.3d 43 (Mo. Ct. App. 2024)(pro se litigant's appeal dismissed and sanctions imposed for frivolous appeal due, in part, to citation of fictitious cases obtained through GAI tool).

¹¹ Rule 11 provides, in pertinent part relevant to the GAI hallucinations, that by inclusion of a legal authority in a pleading or other paper filed with the court, an attorney certifies that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the legal contention is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law. FED. R. CIV. P. 11(b)(2). Rule 11 permits the imposition of sanctions for noncompliance. FED. R. CIV. P. 11(c)-(d).

¹² While a number of ethical rules are applicable to the conduct described in these two opinions, research did not reveal any public disciplinary action yet taken against an attorney in Tennessee or any other jurisdiction for use of GAI hallucinations.

¹³ 678 F. Supp. 3d 443 (S.D.N.Y. 2023).

¹⁴ Id.

Plaintiff's counsel filed a response to the motion to dismiss on March 1, 2023.¹⁵ The response included citation to a number of appellate court decisions.¹⁶ Defense counsel filed a reply on March 15, 2023, which noted that defense counsel was unable to locate eight of the cases cited by plaintiff's counsel.¹⁷ Presiding Judge Peter Kevin Castel was likewise unable to locate the cases through independent search.¹⁸

After being notified that the cases could not be located, plaintiff's counsel failed to take proper action to withdraw or amend the pleading.¹⁹ Judge Castel entered an order on April 11, 2023 requiring plaintiff's counsel to file an annexation with affixed copies of the cases.²⁰ Plaintiff's counsel delayed in responding to this directive and subsequently made misrepresentations to the Court when requesting additional time to do so.²¹

On May 25, 2023, Judge Castel issued a show cause order to consider Rule 11 sanctions. Through the show cause proceeding, it was revealed that Plaintiff's counsel had relied upon a GAI chatbot to locate the eight cases at issue.²² Judge Castel made factual findings that the cases were entirely fictitious.²³ Judge Castel imposed \$5,000 in monetary sanctions against counsel and additional nonpecuniary sanctions pursuant to Rule 11, due to the failure of counsel to confirm the validity of the fictitious cases, as well as the delay in responding to the Court's directive to file the annexation and counsel's misrepresentations to the Court.²⁴

¹⁵ Id. at 450.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 678 F. Supp. 3d at 451.

¹⁹ Id. at 450

²⁰ Id. at 450.

²¹ Id. at 452.

²² See id. at 460-461.

²³ Id.

²⁴ Id. at 466.

Minhe Park v. David Dennis Kim was a medical malpractice action originally filed in the United States District Court for the Eastern District of New York.²⁵ On appeal, the Second Circuit upheld the dismissal of the suit due to plaintiff’s failure to comply with the Trial Court’s discovery orders.²⁶

In review of a brief filed by plaintiff’s counsel during the pendency of the appeal, the Second Circuit was unable to locate one of the cases cited therein.²⁷ Following inquiry with plaintiff’s counsel, the Second Circuit discovered that the case was nonexistent and had been obtained through utilization of a GAI tool.²⁸

In its subsequent opinion upholding the dismissal, the Second Circuit concluded that plaintiff’s counsel’s conduct fell within the scope of Rule 11.²⁹ The opinion particularly noted that “the duties imposed by Rule 11 require that attorneys read and thereby confirm the existence and validity of the legal authorities upon which they rely,” and that there was “no other way to ensure that the arguments made based upon those authorities are warranted by existing law or otherwise legally tenable.”³⁰ The Second Circuit declined to impose monetary sanctions, but in accordance with its local rules, referred plaintiff’s counsel to the Second Circuit’s Grievance Panel for further investigation, and for consideration of subsequent review by its Committee on Admissions and Grievances.³¹

Ethical Rules Implicated by the Use of GAI Hallucinations

A number of ethical rules are potentially implicated through the citation of fictitious cases obtained through GAI hallucinations. The rules discussed below are not intended to be exhaustive. The use of GAI hallucinations has been analyzed by legal commentators principally in the connection

²⁵ 91 F.4th 610 (2nd Cir. 2024).

²⁶ Id. at 91 F.4th 610.

²⁷ Id. at 614

²⁸ Id.

²⁹ Id. at 614-615

³⁰ Id. at 615.

³¹ Id. at 616.

of conduct before a tribunal,³² and some of the rules discussed herein are only applicable in this context (e.g. candor before the tribunal). However, the use of fictitious cases obtained through GAI hallucinations has broader ethical application. Consider the circumstance of an attorney who provides legal advice to a client using a GAI hallucination, or an attorney who asserts a legal position based upon a GAI hallucination in discussion with opposing counsel in a contract negotiation.

1. Competent Representation

A foundational error that can result in the citation of GAI hallucinations in a legal proceeding involves an attorney’s obligation to provide competent representation pursuant to RPC 1.1. For any technology tools that are used in connection with an attorney’s practice, the attorney must develop sufficient requisite knowledge of the technology to confirm that they will be able to use the tool in a manner consistent with their ethical responsibilities.³³

As recognized by the Committee in its formal ethics opinion, Comment [8] of Rule 1.1 of the American Bar Association Model Rules of Professional Conduct (hereinafter the “Model Rules”), adopted in 2012, confirms that an attorney’s cognizance of the “benefits and risks associated” with any technologies used in their practice falls within the scope of their obligation to provide competent representation.³⁴ As artificial intelligence technology is rapidly evolving and attorneys may not be aware of the nature of artificial intelligence technology relative to older technologies, there may be a

³² A “tribunal” is defined as a court (including a special master, referee, judicial commissioner, or other similar judicial officer presiding over a court proceeding), an arbitrator in a binding arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity. TENN. SUP. CT. R. 8, 1.0(m). The Tennessee Rules of Professional Conduct, codified at Rule 8 of the Tennessee Supreme Court Rules, will be cited as RPC __.

³³ ABA FORMAL OP. 512.

³⁴ Tennessee has adopted Model Rule 1.1, Comment [8], codified at RPC 1.1, Comment [8]. The comment is also found in New York’s ethical rules and is thereby applicable to the conduct of counsel in both Mata and Kim.

heightened need for attorneys to invest time in complying with their obligations defined at Comment [8].³⁵

The Board of Professional Responsibility of the Supreme Court of Tennessee (hereinafter, the “Board’s”) Formal Ethics Opinion 2015-F-159 is instructive in the proper methodology for interface with new technologies generally. This opinion was published in response to the rise of “cloud computing” (i.e. technology allowing a lawyer to store data using a remote server in the custody of a third-party).³⁶ Citing RPC 1.1 as well as other ethical rules, the opinion favorably cited recently promulgated formal ethics opinions in other state jurisdictions generally permitting cloud computing, while cautioning attorneys of the potential ethics risks.

Consistent with the overriding premise of Tennessee’s Formal Ethics Opinion 2015-F-159, attorneys should be potentially receptive to GAI technology, particularly as its tools become more prevalent in law practice. This receptivity should be balanced by a reasonable concern and analysis of any potential ethical problems that could arise.³⁷ Engagement of this task may require consultation with in-house or outside IT specialists where an attorney lacks requisite technological understanding.

The opinions in Mata and Kim appear to possibly reflect a misunderstanding of GAI LLM based technology, and thereby implicate the obligations defined at Comment [8] of RPC 1.1. Consider the following statements of counsel regarding the GAI tool at issue:

He was “operating under the false perception that this website [i.e., ChatGPT] could not possibly be fabricating cases on its own.” (Tr. at 31.) He stated, “I just was not thinking that the case could be fabricated, so I was not looking at it from that point of view.” (Tr. at 35.) “My reaction was, ChatGPT is finding that case somewhere. Maybe it's unpublished. Maybe it was appealed. Maybe access is difficult to get. I just never thought it could be made up.”³⁸

³⁵ ABA FORMAL OP. 512. For state bar authorities addressing this issue, see, e.g. STATE BAR OF MICHIGAN FORMAL OP. JI-155 (October 27, 2023); D.C. BAR ETHICS OP. 388 (April 2024).

³⁶ TENN. FORMAL ETHICS OP. 2015-F-159.

³⁷ Cassandra R. Hewlings, Future of Louisiana’s Ethics and Professionalism Rules: As Technology Changes, Will Ethics Stay the Same, LA. BAR JOURNAL (June/July 2016).

³⁸ 678 F. Supp at 451.

Counsel in Mata further referred to the GAI chatbot tool as a “website,” further suggesting a lack of understanding of the very nature of the technology being employed.³⁹ Counsel similarly stated that they considered the GAI tool to be a “super search engine” that could locate and identify on point legal authorities.”⁴⁰ A basic understanding of the nature of GAI technology would have resulted in counsel understanding the distinction between an online reporting service such as WESTLAW or LEXIS, and a GAI chatbot tool, and would have resulted in the cite checking of the cases obtained through GAI application prior to inclusion in the court record.

The need for understanding the nature of GAI tools is apparent from review of the text of one of the fictitious cases cited by counsel in Mata, which was affixed as an attachment to the opinion.⁴¹ Upon casual inspection, the case appears to be a genuine federal appellate court decision. It contains a case caption. It’s pagination and overall form reflects what attorneys are accustomed to when reviewing court decisions on WESTLAW, LEXIS, and similar online legal research services. The case purports to have been adjudicated in the United States Court of Appeals for the Eleventh Circuit and includes a docket number from the purported trial court. Not surprisingly, given the nature of the GAI tool employed, the case was directly on point for the holding that counsel was seeking. If the GAI tool was assumed to be an online reporter akin to WESTLAW or LEXIS, it is understandable why the case would be presumed to be authentic.

2. Managerial Obligations

Attorneys with managerial and supervisory obligations are required to create and maintain protocols ensuring compliance with RPC 1.1, Comment [8]. RPC 5.1 imposes a duty on attorneys with managerial authority over a firm to create and maintain protocols ensuring compliance with the firm’s

³⁹ Id.

⁴⁰ 678 F. Supp. at 456.

⁴¹ 678 F. Supp.3d at 467.

ethical responsibilities.⁴² Likewise, RPC 5.1 requires partners in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, to make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.⁴³ These obligations require lawyers with supervisory authority over other lawyers to make reasonable efforts to ensure that the other lawyers comply with their ethical obligations.⁴⁴ Lawyers with managerial or supervisory authority in a firm are vicariously subject to disciplinary action if they order specified conduct, ratify it, or fail to take reasonable remedial action.⁴⁵ Such vicarious disciplinary action may also arise out of analogous conduct by non-lawyers acting under the lawyers' supervisory authority.⁴⁶

These managerial obligations are inclusive of any technologies employed by the firm to carry out legal services. Attorneys with managerial and supervisory authority are required by RPC 5.1 to create and implement protocols regarding firm technology and place restrictions on unapproved technology, including the use of GAI tools.

The creation and execution of such protocols is particularly crucial in the context of firm research technology, given the propensity of firms to grant relative autonomy to attorneys in their

⁴² The applicability of Model Rule 5.1, adopted in Tennessee at RPC 5.1, in the context of the use of GAI tools, was recognized by the Committee in its formal ethics opinion as well as by other legal authorities. See also D.C. FORMAL OP. 388.

⁴³ RPC 5.1(a). A "firm" is very broadly defined to include any lawyers in a "law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation, government agency, or other organization." RPC 1.0(c); RPC 1.0, Comments [2]-[4]. Comment [2] to RPC 1.0 confirms that regardless of how attorneys define themselves in an association, if they "present themselves to the public in a way that suggests that they are a firm or conduct themselves as a firm, they will be regarded as a firm for purposes of the Rules of Professional Conduct." Consequently, if an attorney with managerial authority has any doubt about whether their legal association is a firm, they should make analysis pursuant to RPC 1.0(e) and its comments and then proceed with application of RPC 1.1, Comment [8].

⁴⁴ RPC 5.1(b).

⁴⁵ RPC 5.1(c).

⁴⁶ RPC 5.3(c).

research practices. Attorneys are typically provided with online research tools, such as access to a WESTLAW or LEXIS plan subscription, and conventional reporting services. However, attorneys impliedly or expressly are also granted autonomy to use any publicly available search engines and other available online tools whether free or through subscription to conduct research and may even be encouraged to use such tools to prevent accrual of unnecessary charges through a subscription service. Particularly given this logistic, an attorney's managerial authority requires the provision of guidance and instruction in circumscribing the parameters of appropriate legal research.

3. Meritorious Claims and Contentions

Attorneys who breach their obligations defined at RPC 1.1, Comment [8] and proceed to cite fictitious legal authorities in a proceeding before a tribunal may be found to have violated additional ethical rules. RPC 3.1 prohibits an attorney from making a factual or legal assertion unless, following reasonable inquiry, the lawyer has a basis in law and fact for doing so that is not frivolous. In Mata, the Court concluded that counsel's failure to cite check or otherwise make further inquiry of the fictitious legal authorities breached the analogous due diligence obligation defined at Rule 11.⁴⁷

Within the context of the due diligence required for compliance with RPC 3.1, attorneys using GAI based technology should take particular care to make further inquiry when a legal authority is located that is directly on point, where no other legal authority is located with the same holding. The absence of any other authority, standing alone, should raise concerns about the validity of the case at issue.

Attorneys have particularly broad potential exposure for disciplinary action for violation of RPC 3.1 relative to the two additional rules discussed below (RPC 3.3(a)(1)(knowing misrepresentation to

⁴⁷ 678 F. Supp. 3d. at 450.

a tribunal) and RPC 3.4(c)(knowing violation of an obligation of the rules of a tribunal)). Violation of RPC 3.3(a)(1) and RPC 3.4(c) requires knowing conduct by the attorney.⁴⁸ In contrast, a violation of RPC 3.1 may arise where the attorney is not aware of the fictitious nature of the cited legal authority, but where a disciplinary authority concludes that the attorney was negligent in their failure to engage in their RPC 3.1 required due diligence.⁴⁹

4. Candor Before a Tribunal

The use of fictitious cases in a written pleading filed with a tribunal, or recitation of such case in open court, may constitute a violation of RPC 3.3(a)(1), which prohibits a lawyer from knowingly making a false statement of fact or law to a tribunal.⁵⁰ The rule encompasses both verbal and written misrepresentations. The rule likewise includes not only inclusion of fictitious legal authorities in a written paper filed with the Court, but also assertion of these legal authorities when appearing before the court at a hearing or trial. The rule additionally encompasses any activity conducted in connection with the tribunal's authority.⁵¹ On this basis, the rule would be inclusive of statements made asserting the validity of a fictitious case in communication with opposing counsel during discovery.

⁴⁸ The limited applicability of RPC 3.3(a)(1) and RPC 3.4(c) to knowing, as opposed to negligent conduct, is confirmed in the language of each respective rule. However, it should be noted that "knowing" conduct may be inferred from the surrounding circumstances. RPC1.0(f)("knowingly" denotes actual awareness of the fact in question. A person's knowledge may be inferred from circumstances).

⁴⁹ The Board uses the ABA Standards for Imposing Lawyer Sanctions to determine what level of sanction is applicable to an attorney's conduct. TENN. SUP. CT. R. 9, §§ 15.1(c)(d); 15.4(a). The ABA Standards require that, at a minimum, an attorney's conduct must be negligent for disciplinary action to be imposed. ABA Standards 3.0 ("The least culpable mental state is negligence. Negligence occurs when a lawyer lacks awareness of a substantial risk that circumstances exist or that a result will follow which failure is a deviation from the standard of care that a reasonable lawyer would exercise in the situation"). STANDARDS FOR IMPOSING LAWYER SANCTIONS PT. II THEORETICAL FRAMEWORK (1992).

⁵⁰ See also RPC 3.3, Comment [4]: "Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal."

⁵¹ RPC 3.3, Comment [1].

5. Knowing Violation of an Obligation Under the Rules of a Tribunal

A number of courts have entered standing orders in response to the growing phenomenon of attorneys citing fictitious cases obtained through GAI hallucinations in court proceedings.⁵²

While the substance of these orders varies, they generally require disclosure of the use of any GAI tool in connection with a court filing, as well as certification of the validity of any legal authority obtained through the GAI tool.⁵³ For example, Judge Brantley Starr of the United States District Court for the Northern District of Texas imposed a standing order on May 30, 2023 in light of the Mata case requiring attorneys and pro se litigants to file a certificate indicating whether GAI tools were used to prepare court filings.⁵⁴ A similar order was entered on June 6, 2023 by Judge Micahel M. Baylson in the United States District Court for the Eastern District of Pennsylvania.⁵⁵ Judge Baylson's order encompasses any AI tool inclusive of both GAI and general AI.⁵⁶

Any citation to a case obtained through GAI technology, or other use of a GAI tool in contravention of these standing orders would potentially evidence a violation of RPC 3.4(c), which prohibits an attorney from knowingly disobeying an obligation under the rules of a tribunal. Attorneys should take particular care to review any standing orders entered in courts where they are counsel of record. Additionally, legal commentators have noted that the scope and application of some of the standing orders is not self-evident.⁵⁷ For example, legal commentators have argued that it may be

⁵² Maura R. Grossman, et al., Is Disclosure and Certification of the Use of Generative AI Really Necessary? WESTLAW LAW PRACTICE INDEX, 107 JUDICATURE 68 (2023).

⁵³ David Horrigan, Generative AI: A Legal Ethics Roadway and Reference Guide, LEGAL TECH NEWS, August 1, 2024, available at <https://www.law.com/author/profile/david-horrigan/>;

⁵⁴ Id. The order may be accessed at <https://www.txnd.uscourts.gov/judge/judge-brantley-starr>.

⁵⁵ Standing Order Re: Artificial Intelligence (“AI”) Cases Assigned to Judge Baylson (E.D. Pa. 2023). The order may be accessed at <https://www.paed.uscourts.gov/documents/standord/Standing%20Order%CC20Re%CC20Artificial%CC20Intelligence%206.6.pdf>.

⁵⁶ Id.

⁵⁷ Supra note 52.

unclear which specific GAI tools fall within the scope of particular standing orders. Consequently, attorneys should err on the side of caution in disclosure of any AI tools to avoid potential noncompliance.

Further Inquiry

If you have questions about the content of this article, you may contact the author at schristopher@tbpr.org or (615) 361-7500, extension 203. Questions about the article may also be directed to the Board's Ethics Counsel, Laura Chastain, at lchastain@tbpr.org, or (615) 361-7500, extension 212.



Board of Professional Responsibility 2024 Ethics Workshop

The Board of Professional Responsibility is excited to present our 2024 Ethics Workshop as a hybrid event, offering both in person and virtual attendance options.

In person attendance will be at Belmont University Law School’s Randall and Sadie Baskins Center in the Anne Lowry Russell Appellate Courtroom. All others will attend via livestream. Each attendee has the opportunity to earn 6.5 hours of dual CLE credit.

The workshop will be held on Friday, November 1 and tickets are \$100. Registration for remote attendance ends Wednesday, October 30. In person attendance is limited due to space and currently there is a waitlist.

For more information and to register, please visit the [ethics workshop webpage](#) or contact Melissa Boyd at the Tennessee Board of Professional Responsibility, at mboyd@tbpr.org or (615) 915-5124.

8:00 – 8:15		Registration
		<u>Presentation</u>
		<u>Speaker</u>
8:15 – 9:15 1.0 (dual)	<p><i>Regulating Trust Funds: Can We Do a Better Job of Preventing Theft?</i></p> <p>Very few lawyers steal, but when they do, they steal big, and they make headlines that can cast a shadow on the entire profession. This session will begin by exploring the mechanics of stealing client funds, including how some noteworthy lawyers (Alex Murdaugh, Tom Girardi, etc.) have not only taken millions from their clients but also evaded notice by those clients, their law partners, the courts, and professional regulators. We will then discuss ways the profession may be able to “plug the leaks,” examining individual efforts from various jurisdictions that are experimenting with tightened ethics rules, state bar administrative efforts, and statutory schemes that reach beyond lawyer regulation.</p>	Michael Virzi
9:15 – 9:20		5 Minute Break
9:20 – 10:20 1.0 (dual)	<p><i>Threats, Safeguarding the Justice System, and Lawyers as Instruments of Justice</i></p> <p>Chief Justice Kirby will explore lawyers’ ethical obligations as to threats from inside and outside the justice system.</p>	Chief Justice Holly Kirby

10:20 – 10:25		5 Minute Break	
10:25 – 11:55 1.5 (dual)	<p align="center"><i>The New Frontier: Navigating AI and Deep Fakes in the Legal Landscape</i></p> <p>In an era where artificial intelligence and deep fakes are increasingly sophisticated, the legal community faces new challenges and opportunities. This session will equip judges and attorneys with the knowledge to understand and identify AI-generated content and deep fakes, exploring their implications in legal contexts. We will cover the latest advancements in AI technology, methods for detecting fabricated evidence, and the ethical considerations surrounding the use of AI in the courtroom. Attendees will leave with practical strategies to confidently address these emerging issues, ensuring justice is upheld in an age of digital deception.</p>	Mark Lanterman	
11:55 – 1:00		Lunch (on your own)	
1:00 – 2:00 1.0 (dual)	<p align="center"><i>Murder Most Foul!</i></p> <p>2024 marks the 100th anniversary of a brutal thrill-killing of a boy by Nathan Leopold and Richard Loeb, the first major ‘Crime of the Century’ in America. In this one-hour ethics presentation learn how their famed attorney was able to represent the pair notwithstanding a disqualifying conflict of interest. This session focuses on both the ethical and constitutional guidelines governing lawyers who represent those charged with murder, mayhem, and other assorted offenses and provides guidance to those who have a client who wants to harm others or themselves. A refresher on the attorney-client privilege is included, as well as a summary of recent national ethics issues.</p>	Jim Grogan	
2:00 – 2:05		5 Minute Break	
2:05 – 2:20 .15 (dual)	<p align="center"><i>Tennessee Lawyers’ Fund of Client Protection</i></p> <p>A brief overview of the agency that provides reimbursement to clients for losses caused by dishonest conduct committed by attorneys practicing law in Tennessee.</p>	Sandy Garrett	
2:20 – 3:05 .45 (dual)	<p align="center"><i>Recent Developments in Lawyers’ Assistance Programs</i></p> <p>This program will provide updates on mental health challenges in the legal profession, TLAP’s confidential assistance behind the scenes, and best practices in generating and monitoring fitness to support practicing lawyers referred to TLAP in the disciplinary system.</p>	Buddy Stockwell	
3:05 – 3:10		5 Minute Break	

<p>3:10 – 4:10 1.0 (dual)</p>	<p><i>Lawyers’ Use and Application of Technology: Is AI Really that Revolutionary?</i></p> <p>With the explosion of Artificial Intelligence (AI) integration in many applications and gadgets that we use every day, it’s easy to get lost in the sea of lofty promises for AI. This session will explore practical applications of AI in the real world in legal-specific technology. For many attorneys, there are more important practical issues in the use and dangers of technology in the practice of law. This session will discuss a lawyer’s everyday use of technology and news gadgets (that may or may not use AI).</p>	<p>Bill Ramsey</p>
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Board of Professional Responsibility Trust Account Workshop

The Tennessee Board of Professional Responsibility will offer a three hour workshop in trust account management from 9:00 AM to 12:30 PM on Wednesday, December 4, at the Nashville School of Law located at 4013 Armory Oaks Drive, Nashville, Tennessee, 37204. Registration for remote attendees ends December 2.

The fee to attend the workshop is \$50. The workshop will be led by Steven Christopher, Deputy Chief Disciplinary Counsel of the Board's Investigations Section, and Doug Bergeron, Disciplinary Counsel in Litigation.

The workshop will cover the Rules of Professional Conduct and Tennessee Supreme Court Rules governing lawyer trust accounts, tips for avoiding overdrafts, best practices for recordkeeping, and an overview of a lawyer's ethical obligations regarding client fees. Suggestions will also be provided for problems commonly encountered by Tennessee lawyers in connection with trust account management. The workshop is open to both attorneys and non-attorney staff.

For more information and to enroll, please visit the [trust account workshop webpage](#) or contact Kelly Heflin at the Tennessee Board of Professional Responsibility, at kheflin@tbpr.org or (615) 695-0940.

Board of Professional Responsibility

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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.

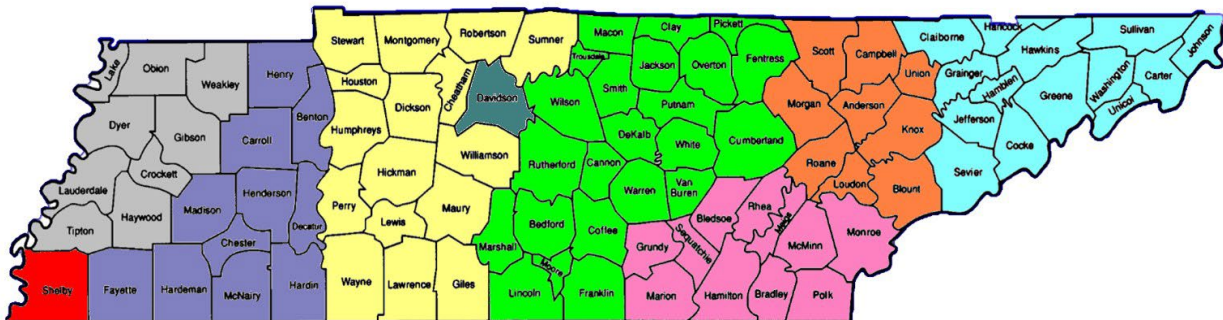
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Tennessee Attorney Information

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% |
|--|---|

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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

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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
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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.

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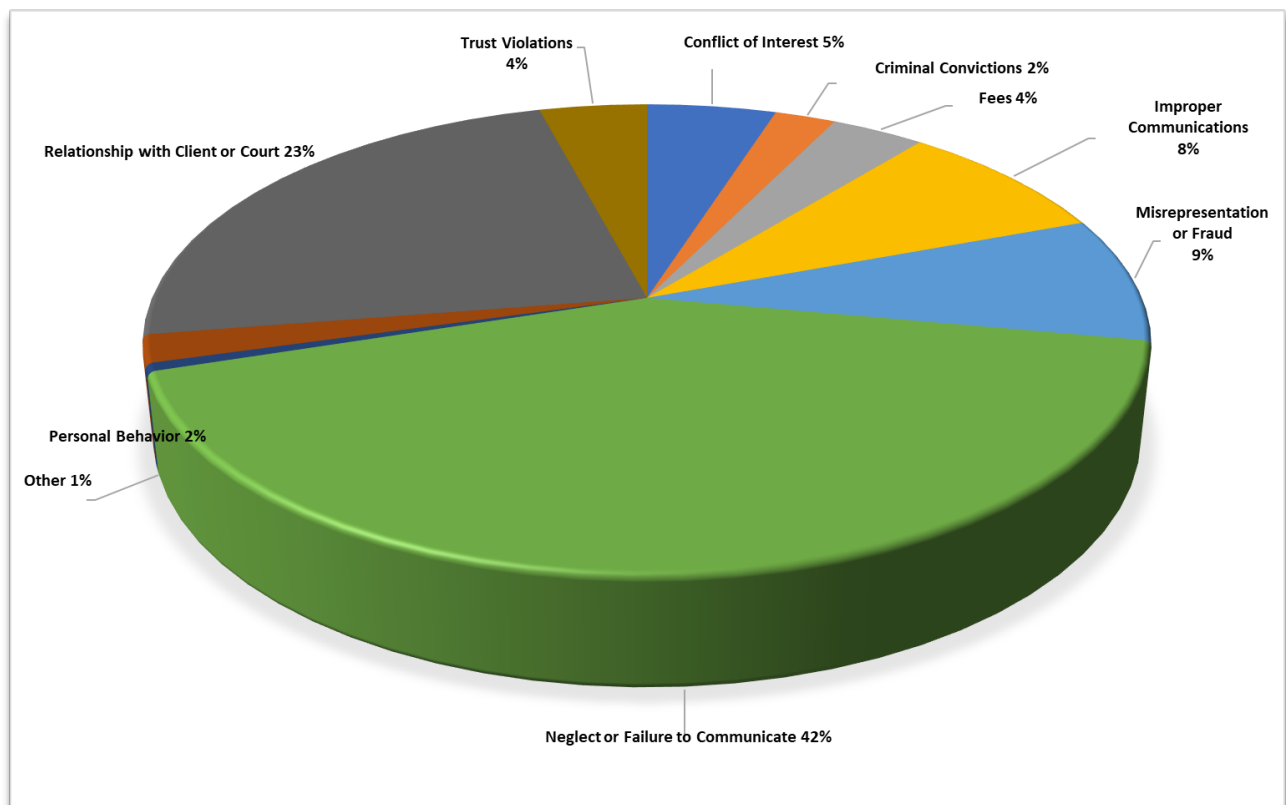
A. Complaints Received/Previously Active

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



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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 ⁷¹ :	<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.

⁷¹ Abated by death; complaint withdrawn; duplicate file.

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A. Formal Disciplinary Caseload

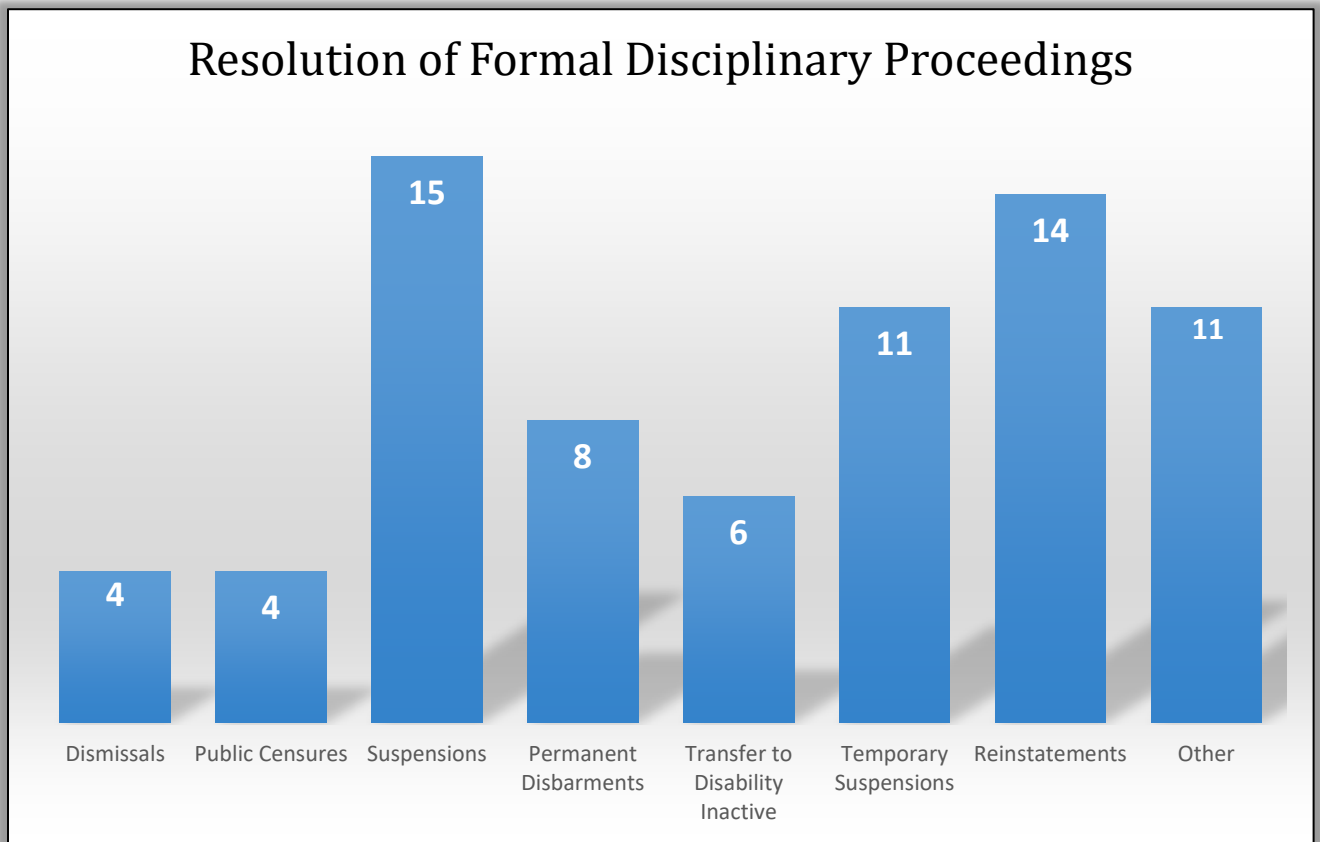
Formal cases filed during Fiscal Year:	62
Formal cases pending at beginning of Fiscal Year:	81
Total formal proceedings:	143
Public hearings conducted in Fiscal Year:	34

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 ⁷² :	<u>11</u>
Total:	73

⁷² Abated by death; voluntary non-suited; denied; withdrawn; nonserious crime.

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▪ 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.⁷³

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 a client for payment of fees, including unearned fees (commonly referred to as

⁷³ 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.

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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:

1. Developing Competent Practices
2. Communicating in an Effective, Timely, Professional Manner
3. Ensuring That Confidentiality Requirements Are Met
4. Avoiding Conflicts of Interest

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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>.

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**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

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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.	Gaiimo	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	Dedmon
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.	Borne	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

Tennessee Lawyers' Fund for Client Protection

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

Tennessee Lawyers' Fund for Client Protection Organization and Composition

The Tennessee Supreme Court has established the Tennessee Lawyers' Fund for Client Protection to reimburse claimants for losses caused by any dishonest conduct committed by lawyers practicing in this state. The purpose of the Tennessee Lawyers' Fund for Client Protection, as set forth in Tennessee Supreme Court Rule 25, is to promote public confidence in the administration of justice and the integrity of the legal profession as a whole by reimbursing losses caused by the rare instances of dishonest conduct of lawyers practicing in this state. The Court appoints a nine-member board to manage Tennessee Lawyers Fund for Client Protection. The Board consists of six lawyers and three nonlawyers who geographically represent the state. In 2023-2024, Board members volunteered 154 hours and received no compensation for their service. Current members of the Board include:

Stacy E. Roettger – Knoxville (Chair)
Christen Blackburn – Nashville (Vice-Chair)
Pamela Z. Clary – Memphis (Lay Member)
Ellie Kittrell – Knoxville (Lay Member)
Amanda Morse – Knoxville
Junaid Odubeko – Nashville
Michelle Sellers – Jackson, TN (Lay Member)
Telesa Taylor – Memphis, TN

Tennessee Lawyers' Fund for Client Protection is assisted by staff at the Board of Professional Responsibility.

Fund Resources

The Fund does not receive any government money or tax dollars. The Fund consists of \$10 annual payments from attorneys pursuant to Tenn. Sup. Ct. R. 9 § 10.2(c) and Tenn. Sup. Ct. R. 25 § 2. The fund also receives unidentified trust funds from lawyer IOLTA accounts if after 12 months, the lawyer determines that ascertaining the ownership or securing the return of the funds will not succeed, pursuant to Tenn. Sup. Ct. R. 8, RPC 1.15(f).

Eligible Claims

Pursuant to Tenn. Sup. Ct. R. 25 §§ 1 and 12, claims must be filed within three (3) years of the date that a loss occurred or reasonably should have been discovered, but in no event later than five (5) years from the date of the loss. The loss must be caused by dishonest conduct committed by lawyers practicing in Tennessee. Tenn. Sup. Ct. R. 25 sets out procedures for filing and processing claims. All claimants must file a complaint with the Board of Professional Responsibility for consideration of their claim.

Claim Limits

Tenn. Sup. Ct. R. 25 § 13 provides:

No payment shall exceed the sum of \$100,000 for loss sustained by any one claimant nor the aggregate sum of \$400,00 with respect to losses caused by any one lawyer or former lawyer unless otherwise determined by the Board and approved by the Court. No payment shall exceed \$400,000 per transaction regardless of the number of persons aggrieved or the amount of loss in such transaction, unless otherwise determined by the Board and approved by the Court. No payment shall exceed ten percent of the assets of the Fund at the time it is made, unless otherwise determined by the Board and approved by the Court. Where joint liability of wrongdoers exists, the Board has discretion to allocate payments as it deems appropriate within these limits. Payments may be in lump sum or installments as the Board may determine.

Resolution of Claims Filed

- | | | |
|--|----|-----------------------|
| 1. New Claims Filed: | 22 | |
| 2. Claims Paid: | 99 | totaling \$142,295.37 |
| 3. Claims Dismissed: | 20 | |
| 4. Claims Pending at beginning of Fiscal Year: | 11 | |

Fiscal Year 2023/2024 Claims Paid by Attorney			
Attorney	County/State	Awards	Reimbursed
Andy Allman	Sumner	88	\$79,494.41
Matthew Dunn	Williamson	1	\$4,995.00
A. Sais Finney	Shelby	1	\$8,335.00
Robert Golder	Shelby	1	\$2,500.00
David Harris	Davidson	1	\$1,500.00
James Hickman	Sevier	1	\$11,975.00
Jason McLellan	Shelby	2	\$9,000.00
Eric Montierth	Roane	1	\$3,500.00
Brian Rickman	Shelby	2	\$16,495.96
Kevin Teets	Montgomery	1	\$4,500.00

Disciplinary and Licensure Actions

(April 2024 – September 2024)

PERMANENT DISBARMENTS

ROBERT ALLEN DOLL, III, BPR #022764

DAVIDSON COUNTY

Effective June 20, 2024, the Supreme Court of Tennessee ordered Robert Allen Doll, III, be permanently disbarred from the practice of law in a unanimous opinion and pay court costs.

On May 31, 2017, the Tennessee Supreme Court suspended Robert Allen Doll, III from the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 22.3, based upon his conviction for two (2) counts of subornation of aggravated perjury in violation of T.C.A. §39-16-705, and one (1) count of criminal simulation in violation of T.C.A. §39-14-115(a)(1)(c) in the Circuit Court of Williamson County, Tennessee, in *State of Tennessee v. Robert Allen Doll, III*. The disciplinary conduct was referred to a Hearing Panel for a formal disciplinary hearing at which the sole issue to be determined was the extent of final discipline. The Panel determined the misconduct by Mr. Doll warranted disbarment. Mr. Doll appealed the judgment of the Panel to the Circuit Court, which affirmed the Panel's judgment. Thereafter, Mr. Doll appealed the judgment of the Trial Court to the Supreme Court, which affirmed the Trial Court's decision.

Mr. Doll must comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of disbarred attorneys.

CHRISTOPHER SHAWN ROBERTS, BPR #033510

ROANE COUNTY

Effective June 10, 2024, the Supreme Court of Tennessee permanently disbarred Christopher Shawn Roberts from the practice of law and ordered him to close his law firm IOLTA account, pay restitution to his former client, and pay all costs incurred to the Board of Professional Responsibility.

Following a final hearing upon the disciplinary petition, the Hearing Panel found, by a preponderance of evidence, that Mr. Roberts committed disciplinary misconduct and should be permanently disbarred. Mr. Roberts, in two matters, charged an unreasonable fee, failed to diligently represent a client, failed to provide competent representation, failed to turn over client materials upon

termination of representation, failed to reasonably communicate with his client, knowingly violated court orders, concealing documents meant for others, advised his client to lie to a court officer, provided false information to the court, and engaged in conduct involving dishonesty, deceit, misrepresentations.

The Hearing Panel found Mr. Roberts has knowingly violated Tennessee Rules of Professional Conduct: 1.1 (competence), 1.2(a) and (d) (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (Declining or terminating representation), 3.2 (expediting litigation), 3.3(a) (candor toward the tribunal), 3.4(c) (fairness to opposing party and counsel), 4.1(a) (truthfulness in statements to others), and 8.4(a)(c)(d) (misconduct).

SUSPENSIONS

GARY LEE ANDERSON, BPR #004515

KNOX COUNTY

Effective July 2, 2024, the Supreme Court of Tennessee suspended Gary Lee Anderson from the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 12.2, for five (5) years, followed by a period of indefinite suspension until he has made restitution to former client Charles Nelson in the amount of \$1,370.00.

A Petition for Discipline containing three (3) complaints was filed by the Board alleging Mr. Anderson failed to reasonably communicate with his clients regarding the status of their cases; failed to act in a diligent manner and expedite the clients' litigation; failed to communicate with clients reasonably; failed to obtain informed consent from actual client following payment from a family member, failed to respond to requests for information from disciplinary counsel; charged an unreasonable fee, failed to delineate and/or specify any limitations on the scope of his representation; non-refundable fee without the client executing a written agreement; accepted client referrals from a non-registered intermediary organization; and failed to take reasonable steps to protect the clients' interest after terminating the representation.

The Hearing Panel found that Mr. Anderson knowingly violated Tennessee Rules of Professional Conduct: 1.1 (competence), 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.8 (conflict of interest: current clients: specific Rules), 8.1(b) (bar admission and disciplinary matters), and 8.4 (a), (c), and (d) (misconduct).

Mr. Anderson must comply with the requirements of Tennessee Supreme Court Rule 9, §§ 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

JASON RUSSELL BUCKLEY, BPR #026795

TENNESSEE LAWYER

By Order of Reciprocal Discipline entered by the Supreme Court of Tennessee on August 8, 2024, Jason Russell Buckley received a one (1) year suspension retroactive to September 7, 2023. Mr. Buckley was suspended by the Supreme Judicial Court for the State of Maine for one (1) year by Order on Motions for Sanctions M. Bar R. 21 entered September 7, 2023, for requesting continuing legal education credit for attending on June 16 and June 17, 2022, live webcast seminars occurring simultaneously in violation of Maine Rules of Professional Conduct 8.4(c) (Misconduct) and Maine Bar Rule 5(a), (f)(1).

On April 8, 2024, the Supreme Court entered a Notice of Reciprocal Discipline directing Mr. Buckley to inform the Court, within thirty (30) days of receipt of the Notice, why the discipline imposed by the Supreme Judicial Court for the State of Maine should not be imposed in Tennessee. On May 6, 2024, Mr. Buckley filed a timely response with the Court, and the Board filed a reply on June 12, 2024, as ordered. Upon due consideration of the respective arguments, the Supreme Court entered its Order of Reciprocal Discipline.

Mr. Buckley must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

JONATHAN WILLIAM DOOLAN, BPR #024397

KNOX COUNTY

Effective June 28, 2024, the Supreme Court of Tennessee suspended Jonathan William Doolan from the practice of law for nine (9) months, with one (1) month being as an active suspension pursuant to Tennessee Supreme Court Rule 9, Section 12.2, and the remainder served on probation with conditions, including contacting with the Tennessee Lawyers Assistance Program and compliance with any recommendations.

A Petition for Discipline containing two complaints was filed by the Board alleging Mr. Doolan failed to reasonably communicate with his clients regarding the status of their case, failed to act in a diligent manner and expedite the clients' litigation, failed to timely respond to discovery requests, failed to communicate with clients, failed to properly withdraw from representation, failed to work within the scope of his representation, failed to take reasonable steps to protect the client's interest after terminating the representation, and failed to comply with requests for information from Disciplinary Counsel.

Mr. Doolan executed a Conditional Guilty Plea acknowledging his conduct violated Tennessee Rules of Professional Conduct 1.2 (scope of representation); 1.3 (diligence); 1.4 (communication); 1.16 (declining or terminating representation); 3.2 (expediting litigation); 3.4 (fairness to opposing party and counsel); and 8.1 (bar admission and disciplinary matters).

Mr. Doolan must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

LARRY E. FITZGERALD, BPR #010953
SHELBY COUNTY

Effective August 14, 2024, the Supreme Court of Tennessee suspended Larry E. Fitzgerald from the practice of law for four (4) years, with the first two (2) years to be served as an active suspension, pursuant to Tennessee Supreme Court Rule 9, Section 12.2, and the remainder to be served on probationary suspension.

In disciplinary matters arising from twelve (12) separate complaints, Mr. Fitzgerald failed to communicate reasonably with his clients, failed to diligently perform work necessary to the representation, failed to properly maintain client funds in his IOLTA trust account, failed to keep accurate accounting of funds kept in trust, failed to return unearned client fees, failed to properly conclude representation of clients, and failed to respond to requests for information from the Board of Professional Responsibility.

Mr. Fitzgerald executed a Conditional Guilty Plea acknowledging his conduct violated Tennessee Rules of Professional Conduct 1.3 (diligence), 1.4 (communications), 1.5 (fees), 1.15 (safekeeping property and funds), 1.16 (terminating representation), and 8.1(b) (disciplinary matters).

Mr. Fitzgerald must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

GRACE INGRID GARDINER, BPR #023269

TENNESSEE LAWYER

Effective September 16, 2024, Grace Ingrid Gardiner of Tampa, Florida, was temporarily suspended by Order of Reciprocal Discipline entered by the Supreme Court of Tennessee on September 16, 2024. Ms. Gardiner was temporarily suspended from the practice of law by Order of the Supreme Court of Minnesota entered June 20, 2024. On August 15, 2024, the Supreme Court of Tennessee entered a Notice of Reciprocal Discipline directing Ms. Gardiner to demonstrate to the Court, within thirty (30) days of receipt of the Notice, why the discipline imposed by the Supreme Court of Minnesota should not be imposed by the Supreme Court of Tennessee. Ms. Gardiner filed a response on September 13, 2024, acknowledging no grounds specified in Tenn. Sup. Ct. R. 9, Section 25.4 existed. Thereafter, the Supreme Court imposed reciprocal discipline consistent with the terms and conditions imposed by the Supreme Court of Minnesota.

Ms. Gardiner must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys. Ms. Gardiner must pay the Court's costs and expenses within ninety (90) days of the entry of the order.

LORING EDWIN JUSTICE, BPR #019446

KNOX COUNTY

Effective June 12, 2024, the Supreme Court of Tennessee unanimously held in a majority opinion, with one Justice writing a concurring opinion, that Loring Edwin Justice committed professional misconduct for which the sanction is a suspension of his law license for three (3) years pursuant to Tenn. Sup. Ct. R. 9, § 12.2.

After a hearing upon the disciplinary petition, a Hearing Panel determined by a preponderance of the evidence that Mr. Justice made statements about a judge in court pleadings that were either false or that no reasonable attorney would believe were true, that the statements were made to disrupt a judicial proceeding, that they caused unnecessary delay and needlessly increased litigation costs, and

that they undermined public confidence in the administration of justice. The Hearing Panel concluded the above conduct by Mr. Justice was in violation of RPC 3.5(e) (disrupting a tribunal), RPC 8.2(a)(1) (judicial and legal officials), and RPC 8.4(a) and 8.4(d) (misconduct). On appeal, the trial court affirmed the findings of the Hearing Panel as to the ethical violations but reversed the Hearing Panel's imposition of a three (3) year suspension and increased the sanction to disbarment.

The trial court's judgment was affirmed in part and reversed in part by the Supreme Court, resulting in affirmation of the findings by the Hearing Panel and the trial court regarding each ethical violation found, and the reversal of the trial court's order of disbarment and reinstatement of the Hearing Panel's three (3) year suspension. The Court ordered Mr. Justice to obtain an additional six (6) hours of CLE pertaining to ethics instruction and pay the costs of his disciplinary proceeding as conditions precedent to reinstatement of his license.

TEMPORARY SUSPENSIONS

AMANDA HOWELL CASTILLO, BPR #037519

MAURY COUNTY

On July 26, 2024, the Supreme Court of Tennessee temporarily suspended Amanda Howell Castillo from the practice of law for failing to respond to the Board of Professional Responsibility concerning one (1) complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to a complaint of misconduct.

Ms. Castillo is immediately precluded from accepting any new cases, and she must cease representing existing clients by August 25, 2024. After August 25, 2024, Ms. Castillo shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Ms. Castillo must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending her law license, and she is required to deliver to all clients any papers or property to which they are entitled.

Ms. Castillo must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Castillo may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

MICKIE SMITH DAUGHERTY, BPR #022746

DAVIDSON COUNTY

On August 20, 2024, the Supreme Court of Tennessee temporarily suspended Mickie Smith Daugherty from the practice of law upon finding that Ms. Daugherty failed to respond to the Board of Professional Responsibility concerning one (1) complaint of misconduct, misappropriated funds, and poses a threat of substantial harm to the public. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to a complaint of misconduct, misappropriation of funds and property, or posing a threat of substantial harm to the public.

Ms. Daugherty is immediately precluded from accepting any new cases, and she must cease representing existing clients by September 19, 2024. After September 19, 2024, Ms. Daugherty shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Ms. Daugherty must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending her law license, and is required to deliver to all clients any papers or property to which they are entitled.

Ms. Daugherty must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Daugherty may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

JONATHAN WILLIAM DOOLAN, BPR #024397

KNOX COUNTY

On September 19, 2024, the Supreme Court of Tennessee temporarily suspended Jonathan William Doolan from the practice of law upon finding that Mr. Doolan failed to comply with a

Tennessee Lawyers Assistance Program monitoring agreement. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's substantial non-compliance with a Tennessee Lawyers Assistance Program monitoring agreement and poses a threat of substantial harm to the public.

Mr. Doolan is immediately precluded from accepting any new cases, and he must cease representing existing clients by October 19, 2024. After October 19, 2024, Mr. Doolan shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Doolan must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license. Mr. Doolan is required to deliver to all clients any papers or property to which they are entitled.

Mr. Doolan must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Doolan may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

ARTHUR C. GRISHAM, JR., BPR #001071

HAMILTON COUNTY

On April 29, 2024, the Supreme Court of Tennessee temporarily suspended Arthur C. Grisham, Jr., from the practice of law upon finding that Mr. Grisham failed to respond to the Board of Professional Responsibility concerning one (1) complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to a complaint of misconduct.

Mr. Grisham is immediately precluded from accepting any new cases, and he must cease representing existing clients by May 29, 2024. After May 29, 2024, Mr. Grisham shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Mr. Grisham must notify all clients being represented in pending matters, as well as co-

counsel and opposing counsel, of the Supreme Court's Order suspending his law license, and he is required to deliver to all clients any papers or property to which they are entitled.

Mr. Grisham must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Grisham may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

JAMES PATRICK HENRY, BPR #033761

KNOX COUNTY

On May 6, 2024, the Supreme Court of Tennessee temporarily suspended James Patrick Henry from the practice of law upon finding that Mr. Henry failed to respond to the Board of Professional Responsibility concerning six (6) complaints of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond.

Mr. Henry is immediately precluded from accepting any new cases, and he must cease representing existing clients by June 5, 2024. After June 5, 2024, Mr. Henry shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Henry must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license. Mr. Henry is required to deliver to all clients any papers or property to which they are entitled.

Mr. Henry must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Henry may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

STEVEN MICHAEL HODGEN, BPR #025456

HAMILTON COUNTY

On May 31, 2024, the Supreme Court of Tennessee temporarily suspended Steven Michael Hodgen from the practice of law upon finding Mr. Hodgen failed to respond to the Board of Professional Responsibility concerning one (1) complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to a complaint of misconduct.

Mr. Hodgen is immediately precluded from accepting any new cases, and he must cease representing existing clients by June 30, 2024. After June 30, 2024, Mr. Hodgen shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Mr. Hodgen must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license, and he is required to deliver to all clients any papers or property to which they are entitled.

Mr. Hodgen must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Hodgen may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

JOEL DAVID RAGLAND, BPR #012222

MONTGOMERY COUNTY

On April 12, 2024, the Supreme Court of Tennessee temporarily suspended Joel David Ragland from the practice of law upon finding Mr. Ragland misappropriated funds for his personal use and poses a threat of substantial harm to the public. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where the attorney misappropriates funds for his personal use or poses a threat of substantial harm to the public.

Mr. Ragland is immediately precluded from accepting any new cases, and he must cease representing existing clients by May 12, 2024. After May 12, 2024, Mr. Ragland shall not engage in the practice of law; use any indicia of lawyer, legal assistant, or law clerk; or maintain a presence

wherein the practice of law is conducted. Mr. Ragland must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license and shall deliver to all clients any papers or property to which they are entitled.

Mr. Ragland must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Ragland may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

FRANCIS XAVIER SANTORE, JR., BPR # 011315
GREENE COUNTY

On September 26, 2024, the Supreme Court of Tennessee temporarily suspended Francis Xavier Santore, Jr. from the practice of law upon finding that Mr. Santore poses a threat of substantial harm to the public. The Supreme Court further ordered Mr. Santore to undergo examination by a qualified medical or mental health expert to assess his capacity and fitness to practice law.

Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where an attorney poses a threat of substantial harm to the public. Section 27.4 of Supreme Court Rule 9 provides for the evaluation of an attorney by a qualified medical or mental health expert, to determine the attorney's capacity to continue to practice law, in cases where the mental or physical health of an attorney is called into question.

Mr. Santore must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement. Mr. Santore must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending his law license. Mr. Santore is required to deliver to all clients any papers or property to which they are entitled.

Mr. Santore is suspended from the practice of law effective immediately and must immediately cease representing clients. Mr. Santore shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Santore may for good cause request dissolution or modification of the suspension by petition to the Supreme Court, but no hearing on such a petition may be held until Mr. Santore complies with all requirements of the Order of Suspension.

MELANIE BETH SHADA, BPR #022279

CUMBERLAND COUNTY

On April 25, 2024, the Supreme Court of Tennessee temporarily suspended Melanie Beth Shada from the practice of law upon finding that Ms. Shada failed to respond to the Board of Professional Responsibility concerning a complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate temporary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to a complaint of misconduct.

Ms. Shada is immediately precluded from accepting any new cases, and she must cease representing existing clients by May 25, 2024. After May 25, 2024, Ms. Shada shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence wherein the practice of law is conducted. Ms. Shada must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel, of the Supreme Court's Order suspending her law license, and is required to deliver to all clients any papers or property to which they are entitled.

Ms. Shada must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 12.3(d), regarding the obligations and responsibilities of temporarily suspended attorneys and the procedure for reinstatement.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Shada may, for good cause, request dissolution or modification of the suspension by petition to the Supreme Court.

PUBLIC CENSURES

JOHNNIE DANIEL BOND, JR., BPR #022444

WASHINGTON D.C.

On July 1, 2024, Johnnie Daniel Bond, Jr., an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Bond's law license was administratively suspended due to his failure to pay his annual fee and do his IOLTA reporting. Mr. Bond admits he received notice of the suspension from the Board but states that he did not read the correspondence. Mr. Bond was engaged in the active practice of law for seven months while his law license was suspended, including filing pleadings, appearing in court, and entering agreed orders. During the suspension, Mr. Bond's website advertised that he had law offices in Memphis and Nashville, Tennessee.

By these acts, Johnnie D. Bond, Jr., is in violation of Rules of Professional Conduct 5.5 (unauthorized practice of law) and 7.1 (communication concerning a lawyer's services) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

JAY NELSON CHAMNESS, BPR #016027

WILLIAMSON COUNTY

On April 17, 2024, Jay Nelson Chamness, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Chamness represented a plaintiff asserting employment discrimination in a case filed in the United States District Court for the Middle District of Tennessee. Over the course of 11 months, Mr. Chamness made at least four false statements to opposing counsel about personal circumstances for which he needed extensions of time. In the last instance, Mr. Chamness asked to reschedule depositions because his mother had died, and he prepared a draft "Motion for Extension of Discovery Deadline" in which he stated he needed the extension because his mother had died. Mr. Chamness sent this motion

to opposing counsel for approval. Opposing counsel hired a private investigator who discovered that Mr. Chamness's mother had not died. Mr. Chamness then admitted his conduct to opposing counsel.

By these acts, Jay Nelson Chamness has violated Rules of Professional Conduct 4.1 (truthfulness in statements to others), 8.4(c) (conduct involving dishonesty) and 8.4(a) (misconduct) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

MARK STEVEN GRAHAM, BPR #011505

KNOX COUNTY

On January 30, 2024, Mark Steven Graham, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Graham's law license is currently suspended. He filed a *pro se* lawsuit and identified himself in the pleading as a "lawyer" and "member of the Bar of the State of Tennessee." Mr. Graham also signed the pleading by using his name, "Esq.," and his Board of Professional Responsibility licensure number, along with the designation that he was *pro se*.

By these acts, Mark Steven Graham, has violated Rules of Professional Conduct 7.1 (communications concerning a lawyer's services), 3.4 (fairness to opposing party), and 8.4(g) (failure to comply with court order) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

SHERYL D. GUINN, BPR #025420

DAVIDSON COUNTY

On July 22, 2024, Sheryl D. Guinn, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Guinn filed a healthcare liability lawsuit against a psychiatrist who treated her client. Ms. Guinn did not believe there was a good faith basis to file the lawsuit and so informed her client, but the client insisted that she wanted to file the lawsuit. Ms. Guinn charged the client a \$3,000 retainer to file

the lawsuit. The defendants were successful in moving to dismiss the lawsuit, and sanctions were awarded against Ms. Guinn.

By these acts, Sheryl D. Guinn has violated Rules of Professional Conduct 1.1 (competence), 1.5 (fees), 3.1 (meritorious claims and contentions), and 8.4(d) (prejudice to the administration of justice) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

DAVID LYNN HAMBLLEN, BPR #010234

OBION COUNTY

On April 23, 2024, David Lynn Hamblen, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Hamblen represented the mother of a child in a custody matter in which an order had been entered granting the mother supervised visitation. The parties and their counsels were discussing entering an agreed order giving the mother unsupervised visitation, but prior to any agreement on that issue, Mr. Hamblen's client called him and said she was having a problem arranging for her visitation to be supervised on a particular day. Mr. Hamblen then instructed his client to go ahead with unsupervised visitation. Opposing counsel filed a motion for contempt, and Mr. Hamblen told opposing counsel that he had instructed his client not to comply with the existing court order, and that he knew no order had been entered relieving her of the supervised visitation.

By these acts, David Lynn Hamblen has violated Rules of Professional Conduct 3.4 (fairness to opposing party) and 8.4(d) (prejudice to the administration of justice) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

MARVIN DON HIMMELBERG, #015199

DAVIDSON COUNTY

On July 16, 2024, Marvin Don Himmelberg, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

In defending a juvenile client against criminal charges, Mr. Himmelberg failed to appear for the client's arraignment hearing, thereby jeopardizing the client's plea deal. Mr. Himmelberg also failed to refund any part of the client's fee.

By these acts, Mr. Himmelberg has violated Rules of Professional Conduct RPC 1.3 (diligence), 1.4 (communication), and 1.5 (fees) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

COLLEEN ANN HYDER, BPR #029571

MONTGOMERY COUNTY

On July 19, 2024, the Supreme Court of Tennessee released an opinion affirming the decision of the Montgomery County Chancery Court imposing a public censure on Colleen Ann Hyder pursuant to Tenn. Sup. Ct. R. 9, Section 12.4. The trial court affirmed the findings of the Board of Professional Responsibility disciplinary Hearing Panel finding Ms. Hyder had committed professional misconduct by representing clients in court and at a mediation for a week after she knew her license was summarily suspended under Tenn. Sup. Ct. R. 9, Section 26, for failure to pay the professional privilege tax. The Supreme Court affirmed the judgment of the Chancery Court that public censure was the appropriate disciplinary sanction for violating Tennessee Rule of Professional Conduct 5.5(a) (Unauthorized Practice of Law).

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

SHAHEEN ILTAF IMAMI, BPR #040047

HAMILTON COUNTY

By Order of Reciprocal Discipline entered by the Supreme Court of Tennessee on August 6, 2024, Shaheen Iltaf Imami received a public censure with conditions. On April 10, 2024, the Attorney Disciplinary Board for the State of Michigan imposed a public reprimand on Shaheen Iltaf Imami conditioned upon successful completion of the (i) State Bar of Michigan’s (SBM) “Lawyer Trust Accounts Seminar: Management Principles & Recordkeeping Resources,” and (ii) successful completion of SBM’s “Tips and Tools for a Successful Practice” seminar, with proof of said completion being provided to the Grievance Administrator. Mr. Imami failed to preserve complete records of account funds for a period of five years; failed to promptly deliver funds owed to his client or third party; failed to promptly render a full accounting; failed to hold property of clients or third parties separate from his own funds; failed to deposit all client or third party funds in an appropriate IOLTA or non-IOLTA account, and/or failed to appropriately safeguard other property; engaged in conduct prejudicial to the administration of justice; and engaged in conduct exposing the legal profession to obloquy, contempt, censure, or reproach in violation of the Michigan Rules of Professional Conduct 1.15(b)(2) and (3), 1.15 (d) and 8.4(c) (Misconduct) and Michigan Court Rules 9.104(1) and (2).

On May 8, 2024, the Supreme Court of Tennessee entered a Notice of Reciprocal Discipline directing Mr. Imami to inform the Court, within thirty (30) days of receipt of the Notice, why the discipline imposed by the Attorney Disciplinary Board for the State of Michigan should not be imposed by the Court. On June 7, 2024, Mr. Imami filed a timely response with the Court, and the Board filed a reply on August 1, 2024, as ordered. Upon due consideration of the respective arguments, the Supreme Court entered its Order of Reciprocal Discipline.

A public censure is a rebuke and warning to the attorney, but it does not affect the attorney’s present ability to practice law.

**Originally posted August 6, 2024. Revised and posted August 9, 2024.*

LINDSEY LEIGH LAWRENCE, #032697

WILSON COUNTY

On July 22, 2024, Lindsey Leigh Lawrence, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

In the representation of clients in a civil proceeding, Ms. Lawrence failed to file a reply to a counterclaim in compliance with applicable rules of court and failed to respond to written discovery, resulting in entry of a default judgment and dismissal of her clients' claims. Ms. Lawrence also failed to keep her clients advised of the status of their case or respond to requests for information. In a second matter where Ms. Lawrence was appointed as conservator over the estate of an adult ward, Ms. Lawrence failed to pay the ward's ongoing expenses, resulting in her removal as conservator by the Court.

By these acts, Ms. Lawrence has violated Rule of Professional Conduct 1.3 (diligence), 1.4 (communication), 3.2 (expediting litigation) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

MARCUS ALLEN LIPHAM, #036403

MADISON COUNTY

On April 10, 2024, Marcus Allen Lipham, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Lipham filed a lawsuit on behalf of a client that lacked any meritorious basis in fact or law. Mr. Lipham subsequently failed to file a response to the defense counsel's motion to dismiss or seek leave to amend the original complaint, and then agreed to the dismissal of the lawsuit with prejudice without his client's informed consent. Mr. Lipham also failed to respond to a motion for sanctions filed by defense counsel or notify his client of the motion hearing. An order imposing sanctions against both Mr. Lipham and his client was entered by the Court.

By these acts, Mr. Lipham has violated Rules of Professional Conduct 1.1 (competence), 1.2(a) (scope of representation), 1.3 (diligence), 1.4 (communication), 1.5(c) (fees), and 3.1 (meritorious claims) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

KATHRYN NAN MACERI, BPR #030797

SHELBY COUNTY

On July 15, 2024, Kathryn Nan Maceri, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Maceri represented a client in seeking the renewal of a work permit for immigration court. Ms. Maceri failed to provide her client with competent and diligent representation. Additionally, Ms. Maceri failed to communicate with her client and breached her responsibilities regarding nonlawyer assistants when her legal assistant provided her client with an altered work permit. As a result, the work permit was unable to be used and her client had to hire a new attorney to assist him in the renewal of the work permit.

By these acts, Ms. Maceri has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 5.3 (responsibilities regarding nonlawyer assistants) and is hereby Publicly Censured for this violation.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

KELVIN ARTHUR MASSEY, BPR #011059

SHELBY COUNTY

On April 23, 2024, Kelvin Arthur Massey, an attorney licensed to practice law in Tennessee, received a Public Censure from the Supreme Court of Tennessee and was ordered to pay the costs and fees of the Board of Professional Responsibility.

While under active suspension from the practice of law, Mr. Massey engaged in unauthorized practice by providing legal advice, drafting legal documents, providing legal services, and holding out

to the public that he was an attorney licensed to practice law in Tennessee. By this conduct, Mr. Massey violated Rules of Professional Conduct 3.4(c) (fairness to opposing party and counsel), 5.5(b)(2) (unauthorized practice of law), and 8.4(g) (misconduct involving failing to comply with a final court order).

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

LYNDA W. PATTERSON, BPR #014424
OVERTON COUNTY

On April 10, 2024, Lynda W. Patterson, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Patterson was hired to seek damages against former residential tenants of her client. Ms. Patterson negotiated an agreed judgment with the former residential tenants for which she prepared an agreed order. Both sets of parties signed the agreed order, and Ms. Patterson mailed it to the judge for entry. The order, however, was never entered by the court. Ms. Patterson's client contacted her two times about the status of the order, and she did not respond. Ms. Patterson then discovered the order had not been entered, and so, fourteen months after the tenants had entered the proposed agreed order, Ms. Patterson proceeded with a default judgment against the former tenants.

By these acts, Lynda W. Patterson is in violation of Rules of Professional Conduct 1.3 (diligence), 3.2 (expediting litigation) and 8.4(d) (prejudice to the administration of justice) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

JUSTIN GREY WOODWARD, #026709
FAIRFAX COUNTY, VIRGINIA

On July 22, 2024, Justin Grey Woodward, an attorney licensed to practice law in Tennessee and Virginia, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Woodward represented a client in pursuing a contract dispute. Mr. Woodward failed to take prompt action after filing the lawsuit, resulting in a significant delay in the proceedings. Mr. Woodward also failed to keep his client updated regarding the status of the proceedings or respond to his client's requests for information.

By these acts, Justin Grey Woodward has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.16(a) (declining or terminating representation), and 3.2 (expediting litigation) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

JONATHAN LEE YOUNG, BPR #020345
OVERTON COUNTY

On July 3, 2024, Jonathan Lee Young, an attorney licensed to practice law in Tennessee, received a Public Censure from the Supreme Court of Tennessee.

Mr. Young represented a client in an emergency conservatorship petition. Mr. Young, during the representation, signed another attorney's name, "with permission", to an order without authorization from said attorney and then presented said order to the presiding judge *ex parte* and obtained the judge's signature. The order named an attorney ad litem to the conservatorship case, and Mr. Young, after obtaining the judge's signature, failed to then file the pleading with the clerk of the court and failed to advise the guardian ad litem or the newly appointed attorney ad litem of the court order. Mr. Young, in the same case, also filed pleadings with incomplete information and multiple documents with improper notarizations.

Mr. Young executed a Conditional Guilty Plea acknowledging that his conduct violated Tennessee Rules of Professional Conduct 1.3 (diligence); 3.3(a) (candor toward the tribunal); and 3.5(b) (impartiality and decorum of the tribunal).

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

JOSEPH TIMOTHY ZANGER, #022600

SUMNER COUNTY

On July 17, 2024, Joseph Timothy Zanger, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Zanger made several procedural errors in handling an adoption case for one client and failed to obtain entry of a Qualified Domestic Relations Order (QDRO) for over three (3) years for another client.

By these acts, Mr. Zanger has violated Rule of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication), 1.16 (declining or terminating representation) and 3.2 (expediting litigation) and is hereby Publicly Censured for these violations.

A Public Censure is a rebuke and warning to the attorney, but it does not affect the attorney's ability to practice law.

REINSTATEMENTS

MATTHEW DAVID BAROCAS, BPR #031962

KNOX COUNTY

By Order of the Tennessee Supreme Court entered May 14, 2024, Matthew David Barocas was reinstated to the active practice of law conditioned upon his continuing compliance with the terms and conditions of the Order of Enforcement entered January 18, 2024.

On January 18, 2024, Mr. Barocas was suspended by the Supreme Court of Tennessee for one (1) year with three (3) months to be served as an active suspension. Mr. Barocas filed a Petition for Reinstatement pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c), on April 17, 2024. The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

JAY NELSON CHAMNESS, BPR #016027

WILLIAMSON COUNTY

By Order of the Tennessee Supreme Court entered April 29, 2024, the law license of Jay Nelson Chamness was transferred from inactive status to active status.

On December 8, 2024, the Supreme Court entered an Order of Removal from Disability Inactive Status, requiring Mr. Chamness to remain on inactive status pending resolution of a pending disciplinary matter. On April 17, 2024, Mr. Chamness resolved his pending disciplinary matter, and the Supreme Court entered an Order of Reinstatement to Active Status, reinstating Mr. Chamness to active status effective April 17, 2024.

JAMES THOMAS DUBOIS, JR., BPR #013777

MAURY COUNTY

By Order of the Tennessee Supreme Court entered April 10, 2024, the law license of James Thomas Dubois, Jr. was reinstated to the active practice of law pursuant to Section 27.7 of Tennessee Supreme Court Rule 9.

On February 13, 2023, Mr. Dubois was placed on disability inactive status. Mr. Dubois filed a Petition for Transfer to Active Status on March 14, 2024, demonstrating he no longer suffers from a disability. The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court. Pursuant to the Order of the Tennessee Supreme Court, Mr. Dubois is immediately eligible to practice law in the state of Tennessee.

ARTHUR C. GRISHAM, JR., BPR #001071

HAMILTON COUNTY

By Order of the Tennessee Supreme Court entered August 15, 2024, Arthur C. Grisham, Jr., was reinstated to the active practice of law.

On April 29, 2024, Arthur C. Grisham was temporarily suspended by the Supreme Court of Tennessee for failing to respond to the Board of Professional Responsibility concerning a complaint of misconduct. Thereafter, Mr. Grisham provided a response to the Board and filed pleadings seeking to dissolve the temporary suspension. The matter was referred by the Supreme Court to a Board Panel for

a hearing on the merits. The matter was heard July 19, 2024, and Panel entered its report on August 12, 2024, recommending the temporary suspension be dissolved.

The Supreme Court adopted the recommendation of the Board Panel and reinstated Mr. Grisham's license to practice law in the state of Tennessee.

R. W. HARDISON aka RANDY WAYNE HARDISON, BPR #009479
WILLIAMSON COUNTY

By Order of the Tennessee Supreme Court entered April 4, 2024, Randy Wayne Hardison was reinstated to the active practice of law.

On April 17, 2019, Randy Wayne Hardison was suspended by the Supreme Court of Tennessee for five (5) years retroactive to his August 29, 2017, temporary suspension. On October 12, 2023, Mr. Hardison filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(d). After a final hearing on the merits, the Hearing Panel recommended Mr. Hardison's license to practice law be reinstated. The Panel determined specifically that Mr. Hardison had demonstrated by clear and convincing evidence he had the moral qualifications, competency, and learning in law required for admission to practice in this state, and his resumption of the practice of law within the state would not be detrimental to the integrity and standing of the bar or the administration of justice, or subversive to the public interest.

Accordingly, the Board of Professional Responsibility shall cause notice of this reinstatement to be published as required by Tennessee Supreme Court Rule 9, Section, 28.11.

MATTHEW LEE HARRIS, BPR #030176
COFFEE COUNTY

By Order of the Tennessee Supreme Court entered May 22, 2024, Matthew Lee Harris was reinstated to the active practice of law.

On April 17, 2024, Mr. Harris was temporarily suspended by the Supreme Court of Tennessee for substantial noncompliance with a Tennessee Lawyer Assistance Program (TLAP) monitoring agreement. Mr. Harris filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c) on May 16, 2024, demonstrating he was currently in substantial

compliance with the monitoring agreement. The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

KENT THOMAS JONES, BPR #020158

HAMILTON COUNTY

By Order of the Tennessee Supreme Court entered June 28, 2024, Kent Thomas Jones was reinstated to the active practice of law.

On February 26, 2024, Mr. Jones was suspended by the Supreme Court of Tennessee for ninety (90) days. Mr. Jones filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c), on June 5, 2024. The Board found the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

As a condition of reinstatement, Mr. Jones is to complete satisfaction of his payment of costs by making two (2) payments of \$1,150.50 to the Board of Professional Responsibility. The first payment is to be received by the Board no later than thirty (30) days from the date of this Order, and the second payment is to be received by the Board no later than sixty (60) days from the date of this Order.

JUDITH-ANNE ROSS ST. CLAIR, BPR #034024

COFFEE COUNTY

By Order of the Tennessee Supreme Court entered June 24, 2024, Judith-Anne Ross St. Clair was reinstated to the active practice of law with conditions.

On July 20, 2018, Ms. Clair was suspended by the Supreme Court of Tennessee for three (3) years with six (6) months active suspension and the remainder on probation. Ms. St. Clair filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(d), on October 17, 2023. The matter was tried before a Hearing Panel, and on April 24, 2024, the Panel recommended Ms. St. Clair be reinstated to the practice of law with conditions.

Ms. St. Clair's reinstatement to the active practice of law is conditioned upon engagement of a practice monitor, continued compliance with her TLAP monitoring agreement, attendance at the next two Camp TLAP events, continued engagement with her therapist for one year, and completion of

fifteen hours of Continuing Legal Education, including at least three hours of legal ethics, as long as she remains licensed.

DISABILITY INACTIVE

RICHARD ALAN GORDON, BPR #012321

SHELBY COUNTY

By Order of the Tennessee Supreme Court entered May 31, 2024, the law license of Richard Alan Gordon was transferred to disability inactive status pursuant to Section 27.1 of Tennessee Supreme Court Rule 9.

Mr. Gordon cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing that his disability has been removed in accordance with Tennessee Supreme Court Rule 9, Section 27.7.

KEITH ALLEN POPE, BPR # 014146

KNOX COUNTY

By Order of the Tennessee Supreme Court entered July 15, 2024, the law license of Keith Allen Pope was transferred to disability inactive status pursuant to Section 27.4 of Tennessee Supreme Court Rule 9.

Mr. Pope cannot practice law while on disability inactive status and shall comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of attorneys transferred to disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing by clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law in accordance with Tennessee Supreme Court Rule 9, Section 27.7.

HOWARD GRAHAM SWAFFORD, JR., BPR #006150

MARION COUNTY

By Order of the Tennessee Supreme Court entered August 5, 2024, the law license of Howard Graham Swafford, Jr., was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Swafford cannot practice law while on disability inactive status and shall comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of attorneys transferred to disability inactive status. Mr. Swafford may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing that his disability has been removed in accordance with Tennessee Supreme Court Rule 9, Section 27.7.

JACK RANDAL TOMBLIN, BPR #023151

SHELBY COUNTY

By Order of the Tennessee Supreme Court entered April 18, 2024, the law license of Jack Randal Tomblin was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Tomblin cannot practice law while on disability inactive status and shall comply with the requirements of Tennessee Supreme Court Rule 9, Section 28 regarding the obligations and responsibilities of attorneys transferred to disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing that his disability has been removed in accordance with Tennessee Supreme Court Rule 9, Section 27.7.

WALTER FRANCIS WILLIAMS, BPR #005929

HAMILTON COUNTY

By Order of the Tennessee Supreme Court entered September 13, 2024, the law license of Walter Francis Williams was transferred to disability inactive status pursuant to Section 27.4 of Tennessee Supreme Court Rule 9.

Mr. Williams cannot practice law while on disability inactive status and shall comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and

responsibilities of attorneys transferred to disability inactive status. Mr. Williams may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing that his disability has been removed in accordance with Tennessee Supreme Court Rule 9, Section 27.7.

ANDREW NICHOLAS WILSON, BPR #025760

SEVIER COUNTY

By Order of the Tennessee Supreme Court entered September 26, 2024, the law license of Andrew Nicholas Wilson was transferred to disability inactive status pursuant to Section 27.4 of Tennessee Supreme Court Rule 9.

Mr. Wilson cannot practice law while on disability inactive status and shall comply with the requirements of Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of attorneys transferred to disability inactive status. Mr. Wilson may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing by clear and convincing evidence that his disability has been removed in accordance with Tennessee Supreme Court Rule 9, Section 27.7, and that he is fit to resume the practice of law.

TENNESSEE LAWYERS' FUND
for CLIENT PROTECTION
FUND PAYMENTS

KEVIN CARMACK ANGEL BPR #019950

ANDERSON COUNTY

On September 5, 2024, the Tennessee Lawyers' Fund for Client Protection (Lawyers' Fund) paid a claim filed against Kevin Carmack Angel, in the amount of \$39,585.54.

Lawyers' Fund, financed by Tennessee lawyers and judges, was established by the Tennessee Supreme Court to reimburse individuals for losses caused by the rare instances of dishonest conduct by attorneys. The Tennessee Supreme Court appoints a Lawyers' Fund Board, consisting of six lawyers and three non-attorney members, who serve without compensation in considering and paying claims pursuant to Tennessee Supreme Court Rule 25.

Mr. Angel is required to reimburse Lawyers' Fund for the amount paid to any claimant pursuant to Tennessee Supreme Court Rule 25 Section 16 and/or the Order of Enforcement entered by the Supreme Court of Tennessee.

MATTHEW DAVID DUNN, JR. BPR #030759

WILLIAMSON COUNTY

On June 20, 2024, the Tennessee Lawyers' Fund for Client Protection (Lawyers' Fund) paid a claim filed against Matthew David Dunn, in the amount of \$4,995.00.

Lawyers' Fund, financed by Tennessee lawyers and judges, was established by the Tennessee Supreme Court to reimburse individuals for losses caused by the rare instances of dishonest conduct by attorneys. The Tennessee Supreme Court appoints a Lawyers' Fund Board, consisting of six lawyers and three non-attorney members, who serve without compensation in considering and paying claims pursuant to Tennessee Supreme Court Rule 25.

Mr. Dunn is required to reimburse Lawyers' Fund for the amount paid to any claimant pursuant to Tennessee Supreme Court Rule 25 Section 16 and/or the Order of Enforcement entered by the Supreme Court of Tennessee.

ERIC JOHN MONTIERTH BPR #031679

ROANE COUNTY

On October 2, 2024, the Tennessee Lawyers' Fund for Client Protection (Lawyers' Fund) paid a claim filed against Eric John Montierth, in the amount of \$4,700.00.

Lawyers' Fund, financed by Tennessee lawyers and judges, was established by the Tennessee Supreme Court to reimburse individuals for losses caused by the rare instances of dishonest conduct by attorneys. The Tennessee Supreme Court appoints a Lawyers' Fund Board, consisting of six lawyers and three non-attorney members, who serve without compensation in considering and paying claims pursuant to Tennessee Supreme Court Rule 25.

Mr. Montierth is required to reimburse Lawyers' Fund for the amount paid to any claimant pursuant to Tennessee Supreme Court Rule 25 Section 16 and/or the Order of Enforcement entered by the Supreme Court of Tennessee.