

Board of Professional Responsibility

39th Annual Discipline Report Fiscal Year July 1, 2019 – June 30, 2020

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 2019-2020, Board members volunteered 584 hours and received no compensation for their service. Members of the Board include:

Floyd Flippin (Chair)
Joe M. Looney (Vice-Chair)
Stacey B. Edmonson
Ruth Ellis
Jennifer S. Hagerman
John D. Kitch
Jon Lundberg (Lay Member)
Jimmie Miller
Tyreese Miller* (Lay Member)
Juanita Patton (Lay Member)
Jody Pickens
Bridget Willhite

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 2019-2020, 178 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 178 members, 169 reported volunteering 2,436 hours in 2019-2020 for which they received no compensation for their services. A roster of current district committee members is attached as Exhibit B.

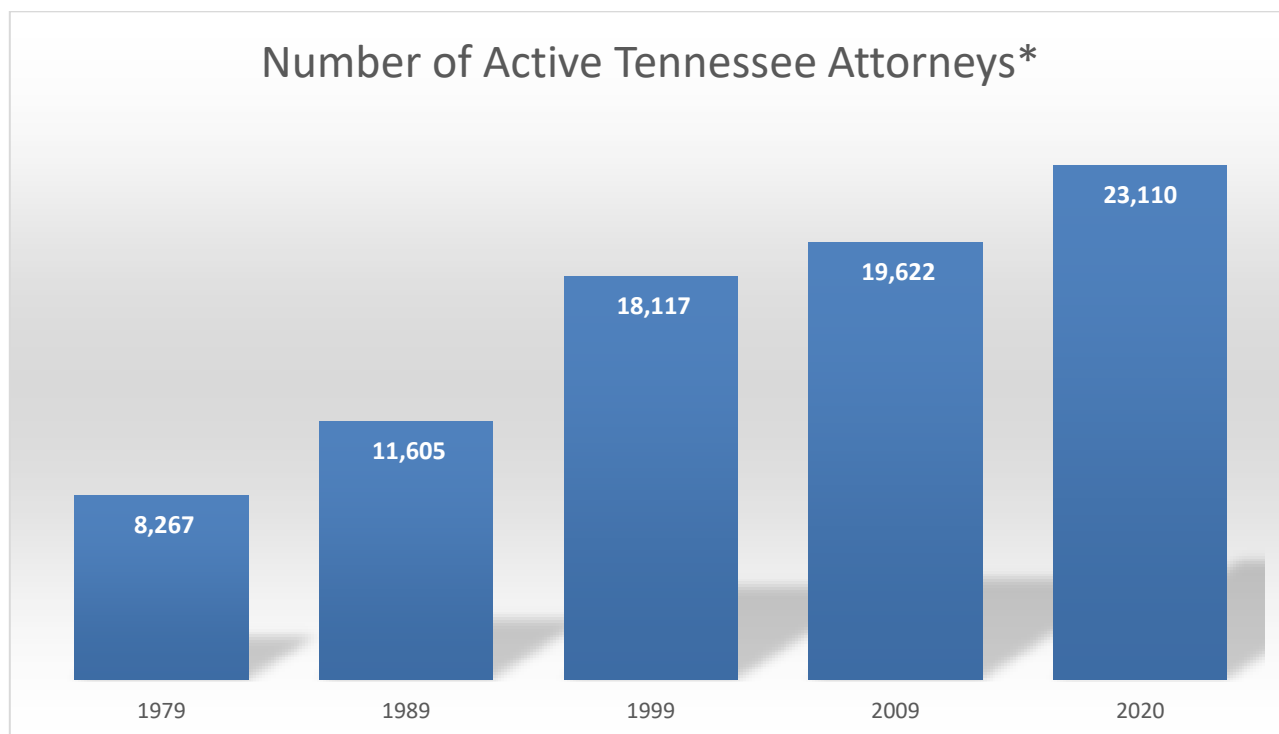
*Resigned after confirmation as U.S. Marshal for West Tennessee

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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. We collect and make available public registration information on our website to allow the judiciary, lawyers and the public to access licensing, registration and contact information about lawyers.

Active Attorneys: 23,110



Active Attorney Statistics:

- | | | | | | |
|-------------------|-------------|-----|-----------------------|---------------------------|-----|
| ▪ Years Licensed: | <5 yrs: | 16% | • Age: | 21-29 yrs: | 5% |
| | 5-10 yrs: | 16% | | 30-39 yrs: | 23% |
| | 10-15 yrs: | 16% | | 40-49 yrs: | 24% |
| | 15-20 yrs: | 12% | | 50-59 yrs: | 20% |
| | 20-25 yrs: | 11% | | 60-69 yrs: | 18% |
| | 25-30 yrs: | 8% | | 70+ yrs: | 10% |
| | 30+ yrs: | 21% | | | |
| ▪ Gender: | Male: | 62% | • In-state Attorneys: | 82% | |
| | Female: | 35% | | • Out-of-state Attorneys: | 18% |
| | Unreported: | 3% | | | |

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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 2019-2020, 5,263 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 2019-2020 as follows:

Non-payment of Annual Fee:	216
Continuing Legal Education non-compliance:	178
Interest on Lawyer's Trust Accounts non-compliance:	49
Professional Privilege Tax non-compliance:	106
Default on a Student Loan:	<u>0</u>
Total:	549

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Assistance, Investigation and Prosecution

▪ **Consumer Assistance Program (CAP)**

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.

Caseload

Number of Cases Opened	2,278
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Timeliness of Resolution

0 to 15 days	65.2%
16 to 30 days	20.9%
31 to 60 days	10%
61 or more days	4%

Actions Taken

Mediate	34.6 %
Advise	45.6%
Referrals	12.7%
Provide Information	7.1%

▪ **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>	103
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Actions Taken

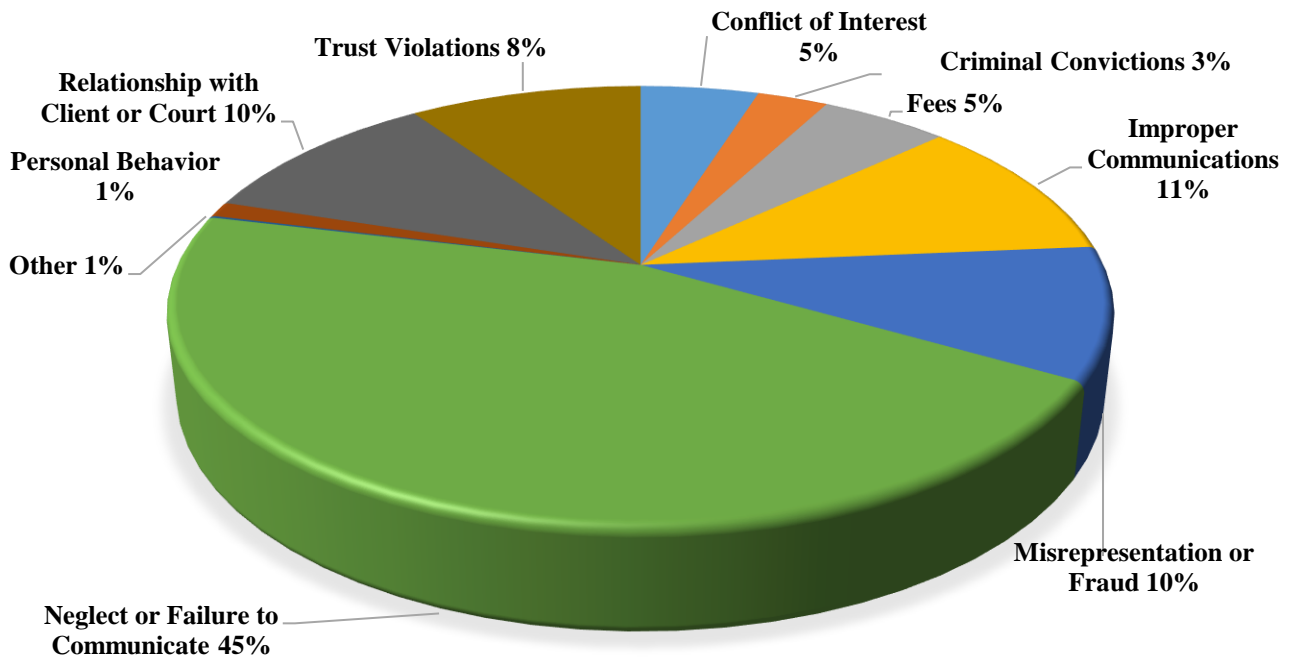
Referred to Investigations:	31
Referred to Litigation:	2
Resolved without Investigation:	72

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▪ Investigation

Disciplinary Counsel investigate complaints 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.

A. Nature of Complaints



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B. Investigative Complaint Caseload

Complaints Received:	1,242
Complaints Pending at beginning of Fiscal Year:	<u>426</u>
 Total Complaints:	 1,668

C. Investigative Complaint Disposition:

Administrative Dismissals:	511
Investigative Dismissals:	508
Diversions:	41
Private Informal Admonitions:	30
Private Reprimands:	29
Informal Public Censures:	45
Transfer to Disability Inactive:	3
Placed on Retired Status:	34
Other: ¹	<u>11</u>
 Total:	 1,212

¹ Abated by death; complaint withdrawn; duplicate file.

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▪ **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.

A. Caseload

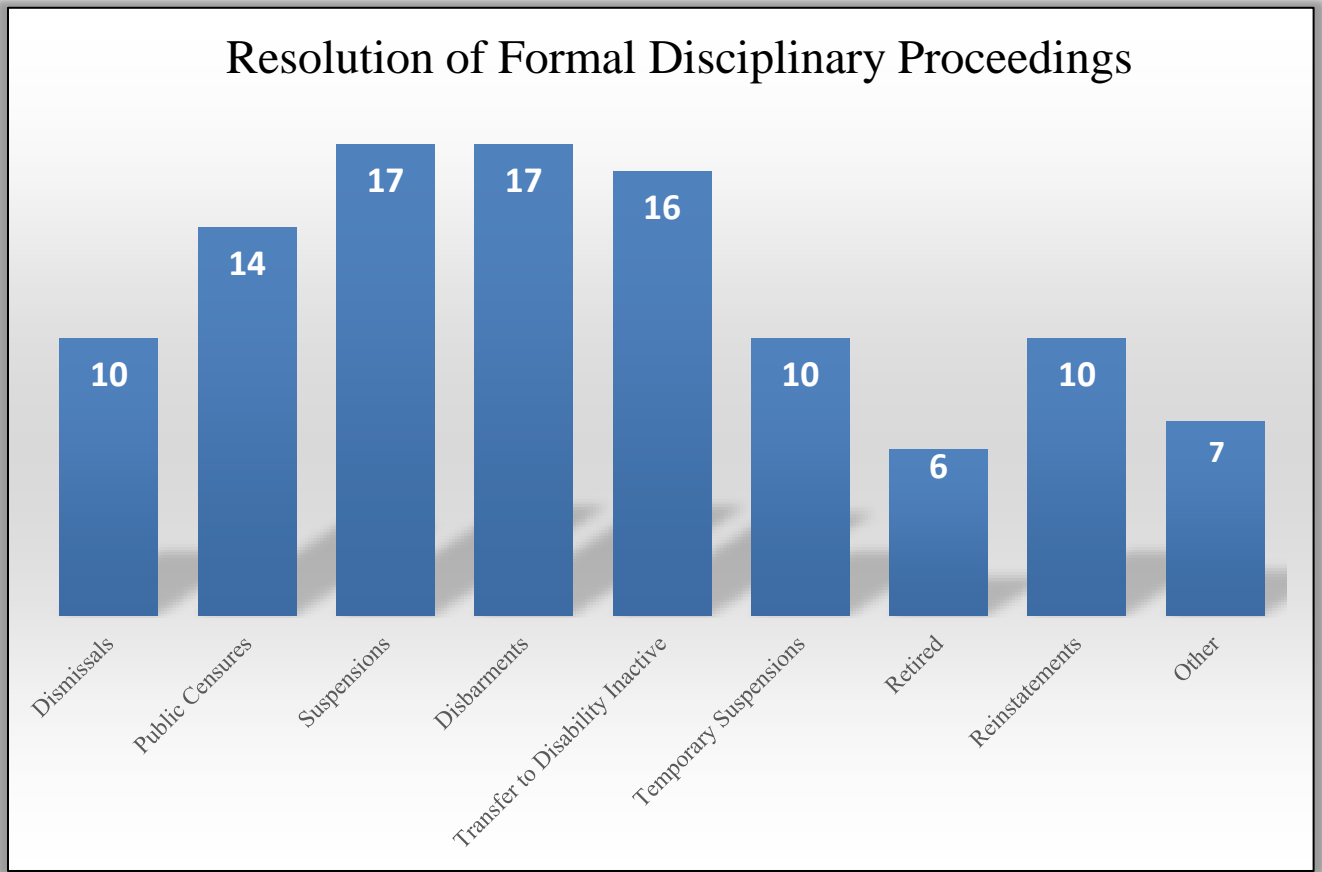
Formal cases filed during Fiscal Year:	89
Formal cases pending at beginning of Fiscal Year:	110
Total formal proceedings:	199
Public hearings conducted in Fiscal Year:	31

B. Formal Disciplinary Proceedings Disposition:

Dismissals:	10
Public Censures:	14
Suspensions:	17
Disbarments:	17
Transfer to Disability Inactive:	16
Temporary Suspensions:	10
Retired:	6
Reinstatements:	10
Other ² :	<u>7</u>
Total:	114

² 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 2,533 phone and internet inquiries from attorneys seeking ethical guidance.³

ii. Formal Opinions

The Board did not issue any formal ethics opinions this fiscal year.

B. Continuing Legal Education (CLE) Presentations:

Between July 1, 2019 and June 30, 2020, Disciplinary Counsel presented fifty-three (53) CLE seminars, attended by approximately 3,491 attorneys.

C. Board Notes:

In 2019-2020, 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.

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

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D. Workshops

- a. The Board of Professional Responsibility hosted its annual Ethics Workshop on October 25, 2019 at the Nashville School of Law with over 400 attorneys attending. Due to the COVID-19 Pandemic, this year's Ethics Workshop has been cancelled. The Board is hopeful that the Ethics Workshop will return in the Fall of 2021.
- b. Since August 2018, the Board of Professional Responsibility has offered a Trust Account workshop to attorneys receiving diversion and/or discipline for trust account violations. One trust account workshop was held in 2019/2020.

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Staff Directory

Name	Title	Extension
Kevin Balkwill	Disciplinary Counsel	223
Doug Bergeron	Disciplinary Counsel	239
Carol Bershatsky	Receptionist	200
Patty Burton	Assistant Director	216
Joe Byrd	Disciplinary Counsel	246
Melanie Cail	Legal Assistant - Litigation	237
Laura Chastain	Ethics Counsel	212
Steve Christopher	Deputy Chief Disciplinary Counsel - Investigations	203
Dana Dunn	Executive Assistant	209
Sandy Garrett	Chief Disciplinary Counsel	211
Reynold Gaulden, Jr.	Registration Assistant II	244
Elizabeth Gray	Administrative Assistant-Registration/ Scanning	202
Penny Greene	Administrative Payables Clerk	219
Kelly Heflin	Legal Assistant - Investigations	242
McKenzie Hollars	CAP Legal Assistant	228
Alan Johnson	Disciplinary Counsel	207
Katherine Jennings	Lead Legal Assistant - Investigations	218
Cheryl Lang	Administrative Scan Clerk	234
Brittany Lavalley	Disciplinary Counsel	214
Molly Liens	CAP Legal Assistant	252
Mary McKnight	Registration Manager	213
Jerry Morgan	Disciplinary Counsel	245
Missy Nesbitt	Lead Legal Assistant – Litigation	221
Tony Pros	Network Administrator	230
Liz Radford	Legal Assistant – Investigations and Litigation	238
Beverly Sharpe	Director of Consumer Assistance Program	226
Eileen Burkhalter Smith	Disciplinary Counsel	210
Candis Story	Case Manager	229
Giselle Sutherland	Paralegal	224
Suzie Thurber	Administrative Receivables Clerk	241
Cheri Weaver	CAP Paralegal	208
Rita Webb	Executive Secretary	206
Lani White	Registration and Scan Clerk	234
Russ Willis	Deputy Chief Disciplinary Counsel - Litigation	214

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District Committee Member Roster

District	First Name	Last Name	District	First Name	Last Name	District	First Name	Last Name
1	Guy W.	Blackwell	4	Michael	Corley	6	Tracy	Moore
1	Julie	Canter	4	Christina	Duncan	6	Dalton	Mounger
1	McKenna L.	Cox	4	Joy	Gothard	6	Paul	Plant
1	James B.	Dunn	4	Kyle B.	Heckman	6	James Y.	Ross, Sr.
1	William B.	Harper	4	Jeffrey	Henry	6	Michael Stuart	Saylor
1	James W.	Harrison	4	Robert W.	Newman	6	Edward	Schell
1	Olen	Haynes, Jr.	4	Lynn	Omohundro	6	Jerry V.	Smith
1	K. Kidwell	King, Jr.	4	Tommy	Thompson	6	Timothy	Underwood
1	Richard E.	Ladd, Jr.	4	Randall	York	6	Jeffery	Walker
1	Polly A.	Peterson	5	John M.	Baird	6	Jake	Wolaver
1	Nikki C.	Pierce	5	Keene W.	Bartley	7	Andy	Anderson
1	Mark A.	Skelton	5	Robert C.	Bigelow	7	Lowie	Finney
1	Andrew T.	Wampler	5	Martha	Boyd	7	Matthew A.	Floyd
1	Laura	Woods	5	Kenneth	Bryant	7	Paul	Hessing
2	Oliver Dawson	Adams	5	Michael M.	Castellarin	7	Joseph	Howell
2	Wm. Dale	Amburn	5	Zale	Dowlen	7	Dwayne	Maddox, III
2	Maha	Ayesh	5	Jad A.	Duncan	7	Teresa	Marshall
2	Heidi	Barcus	5	Johnny	Ellis	7	William J.	Milam
2	Amanda M.	Busby	5	Christopher B.	Fowler	7	Jay	Reynolds
2	John W.	Butler	5	Craig Y.	Gabbert, Jr.	7	Clint	Scott
2	Robert	Carpenter	5	Candi R.	Henry	7	Vincent	Seiler
2	James C.	Cone	5	Adam	Hill	7	Michelle	Shirley
2	Virginia	Couch	5	Lucas	Jenkins	7	Leanne	Thorne
2	Loretta G.	Cravens	5	Stanley A.	Kweller	7	Edwin	Townsend, Jr.
2	Karen	Crutchfield	5	Richard	McGee	7	Joe	VanDyke
2	David A.	Draper	5	Bill	O'Bryan	8	Bill	Bowen
2	John Paul	Dreiser	5	Steven D.	Parman	8	Dean	Dedmon
2	Shannon	Egle	5	Andrea P.	Perry	8	Jeff	Lay
2	John E.	Eldridge	5	Lee	Pope	8	Tony	Maness
2	Gene Paul	Gaby	5	Raymond G.	Prince	8	Amber	Shaw
2	Christopher	Hall	5	Aaron	Raney	8	Joseph E.	Tubbs
2	Lisa J.	Hall	5	Peter C.	Robison	8	John	Warner, III
2	Josh	Hedrick	5	Edgar M.	Rothschild	8	Vanessa	Webb
2	Kenneth	Irvine, Jr.	5	Abby	Rubensfeld	8	Allison S.	Whitedge
2	Russell	Johnson	5	Christopher C.	Sabis	9	Imad	Abdullah
2	Brian K.	Krumm	5	Michael J.	Sandler, Sr.	9	Thomas	Branch
2	Stephen A.	Marcum	5	Jennifer Lynne	Sheppard	9	Karen	Campbell
2	Carl P.	McDonald	5	Gary	Shockley	9	Stuart	Canale
2	Eric J.	Morrison	5	Rebekah	Shulman	9	Tom	Cassidy, Jr.
2	Marshall H.	Peterson	5	Liz	Sitgreaves	9	Margaret	Chesney
2	Mary Ann	Stackhouse	5	Leza	Skoney	9	Frank	Childress
2	Mark	Stephens	5	Jeffrey	Spark	9	Rick	Click
2	Kevin	Teeters	5	Taylor C.	Sutherland	9	Anne B.	Davis
2	Victoria B.	Tillman	5	David J.	Tarpley	9	Laura	Deskins
2	Hanson R.	Tipton	5	James Patrick	Warfield	9	Asia	Diggs
2	Elizabeth	Tonkin	5	Bernadette	Welch	9	Jessica	Ferrante
2	Brian	Wanamaker	5	Gerald C.	Wigger	9	Amber	Floyd
2	Shelly	Wilson	5	Stephen	Zralek	9	Harriett	Halmon
2	Clint	Woodfin	6	Douglas T.	Bates, III	9	Lauren	Holloway
2	Broderick	Young	6	Caroline G.	Beauchamp	9	Sean A.	Hunt
3	Peter	Alliman	6	Richard	Boehms	9	Robbin	Hutton
3	John H.	Cameron, Jr.	6	Nathan	Brown	9	Adam	Johnson
3	Blair	Cannon	6	Vanessa	Bryan	9	Julia	Kavanaugh
3	John M.	Carson III	6	Greg	Burlison	9	Timothy	Kellum
3	Larry	Cash	6	Jim	Catalano	9	E. Patrick	Lancaster
3	Stephen D.	Crump	6	Anita Lynn	Coffinberry	9	Andre	Mathis
3	Rosemarie L.	Hill	6	Hilary	Duke	9	Zachary	Moore
3	Cameron S.	Hill, Sr.	6	Ryan P.	Durham	9	Charles	Morrow
3	Philip	Jacobs	6	Nichole	Duché	9	Kimbrough	Mullins
3	Michael	Jenne	6	Michael	Fahey, II	9	Ashley	Patterson
3	Bill	Killian	6	Rebekah	Fisher	9	Michael C.	Patton
3	John F.	Kimball	6	Jennifer F.	Franks	9	Eugene	Podesta
3	Jeffrey	Maddux	6	Robert H.	Hassell, II	9	Steve	Ragland
3	Stevie	Phillips	6	Kim	Helper	9	Terrence	Reed
3	H. Chris	Trew	6	Patricia	Holder	9	Marc	Reisman
3	William	Weiss	6	Clint	Kelly	9	Holly J.	Renken
4	Doug	Aaron	6	David	Kozlowski	9	Jennifer	Sink
4	William	Acuff	6	Eric	Larsen	9	Kamilah	Turner
4	Phillip	Bivens	6	Patricia A.	McDade	9	Andre	Wharton
4	Todd	Bobo	6	James	Brandon	9	Yohey	(Isaacman)
			6	James W.	Milam			