



THE STATE BAR OF CALIFORNIA

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DATE: July 11, 2016

TO: Members, Committee on Regulation and Discipline Oversight (RAD)

FROM: Gregory Dresser, Interim Chief Trial Counsel

SUBJECT: Status Report from the Office of Chief Trial Counsel (OCTC)

For this status report, I have highlighted key inventory numbers and workflows for 2016, based on statistical information as of June 30, 2016.

I.

June 2016 Month-End Metrics

In addition to the key monthly metrics for June 2016, I have also set forth, below, monthly metrics from previous months in 2016.

New Complaints

In June 2016, Intake opened 1,231 new cases (complaints from complainants, State Bar-initiated matters (SBIs), and Reportable Actions (RAs)), as follows.

- 975 new complaints from complainants;
- 35 new SBIs; and
- 221 new RAs.

Intake opens cases from different “case initiation” types or sources. Complainant cases are initiated by a complaint from a member of the public. SBIs are opened by OCTC without a complainant, such as when OCTC learns of possible attorney misconduct through media coverage or during the course of a separate disciplinary investigation. RAs are matters where an individual or entity has reported certain activity to OCTC, pursuant to statutory obligations, such as where a financial institution reports insufficient funds in an attorney client trust account or a superior court reports imposition of certain sanctions against an attorney.

The monthly new case numbers through June 2016 are set forth, immediately below.

2016	Jan	Feb	Mar	Apr	May	June
Complainant	937	1,013	1,046	1,036	1,068	975
State Bar Initiated	27	41	49	28	20	35
Reportable Actions	180	193	252	208	195	221
TOTAL	1,144	1,247	1,347	1,272	1,283	1,231

Call Center Volume

In June 2016, Intake received 3,493 calls to the Complaint Hotline and 9 calls to the Immigration Hotline, for a total of 3,502 calls.

The monthly numbers through June 2016 are, as follows.

2016	Jan	Feb	Mar	Apr	May	June
Complaint Hotline	3,224	3,552	3,668	3,519	3,276	3,493
Immigration Hotline	19	12	12	22	25	9
TOTAL	3,243	3,564	3,680	3,541	3,301	3,502

Active Inventories

At the end of June 2016, OCTC's month-end inventory of active attorney disciplinary cases that had yet to be filed, closed, or otherwise resolved was 3,519:

- 741 cases in Intake;
- 2,515 cases in Investigations; and
- 263 cases in Pre-Filing (investigation is complete and matter is with trial counsel to take next steps regarding formal disciplinary charges).

The monthly numbers for active attorney discipline cases through June 2016 are set forth, immediately below.

2016	Jan	Feb	Mar	Apr	May	June
Intake	1,339	1,434	1,394	1,207	958	741
Investigation	1,579	1,602	1,845	2,049	2,291	2,515
Pre-Filing	234	221	234	227	233	263
TOTAL	3,152	3,257	3,473	3,483	3,482	3,519

At the end of June 2016, OCTC's backlog inventory was 1,672:

- 673 active cases in backlog; and
- 999 suspended cases in backlog.

The monthly backlog numbers through June 2016 are, as follows.

2016	Jan	Feb	Mar	Apr	May	June
Active	523	536	616	599	629	673
Suspended	962	977	928	980	1,015	999
TOTAL	1,485	1,513	1,544	1,579	1,644	1,672

Suspended Inventory Details

The majority of suspended cases are suspended due to the likely disbarment of the attorneys involved as a result of other disciplinary cases already filed and pending before the State Bar Court or Supreme Court. As of June 30, 2016, there were 1,177 cases in suspended status, 999 of which were in backlog status. The 1,177 suspended cases involved 196 attorneys, 145 of whom are on inactive status or otherwise not entitled to practice law. The reasons for suspension of work in the 1,177 cases are, as follows.

Suspension Reason	
Default in other matter	221
Expected Disbarment	356
Disbarment Recommendation Filed by SBC	318
Overlapping Litigation	141
Inactive Enrollment Order	141
TOTAL	1,177

Audit & Review: Second-Look Requests

There were 348 pending "second look" requests at the end of June. The median time it took OCTC to process a second-look request in June was 129 days. The mean (average) time it took OCTC to process a second-look request was 140 days.

The monthly second look inventory numbers for this year are, as follows.

Jan	Feb	Mar	Apr	May	June
286	334	344	331	323	348

The monthly processing times for 2016 are, as follows.

	Jan	Feb	Mar	Apr	May	June
Median	93	107	100	94	118	129
Mean	98	131	130	105	146	140

Following recommendations by the California State Auditor, and pursuant to workforce planning efforts, beginning on July 1, the Bar realigned Audit and Review’s “second look” function to the Office of General Counsel. OCTC will continue to work on the “second look” cases that were in its inventory on June 30 until they are all resolved.

Walker Petitions

There was one *Walker* petition filed in June 2016. There were no *Walker* petitions granted in June.

The monthly numbers for *Walker* petitions, filed and granted, through June 2016 are, as follows.

2016	Jan	Feb	Mar	Apr	May	June
Filed	7	8	2	3	7	1
Granted	0	0	0	0	0	0

Trials and Discipline Decisions

OCTC received discipline recommendations from the Hearing Department last month involving 49 cases and one dismissal decision, as follows.

- Five by trial decision;
- 29 by stipulation;
- Four by Alternative Discipline Program decision;
- 11 by default decision; and
- No dismissal decisions.

The monthly numbers through June 2016 are set forth, immediately below.

Decision Type	Jan	Feb	Mar	Apr	May	June
Trial	8	2	4	7	7	5
Default Decision	8	7	11	24	8	11
Stipulation	32	21	22	25	31	29
ADP Decision	11	0	7	0	0	4
Dismissal Decision	0	0	0	0	1	0

Due to limitations of the State Bar Court’s available data, this count is based upon OCTC’s internal hand count of the decisions and orders received each month.

Non-Attorney Complaints

OCTC has dedicated staff in its Intake and Enforcement Units to receive and process complaints against non-attorneys. While OCTC’s jurisdiction over non-attorneys is limited compared to that over attorneys, OCTC reviews non-attorney complaints alleging the unauthorized practice of law and may investigate such complaints for specific action, such as requesting a superior court to assume jurisdiction over a non-attorney law practice or to bring civil actions against non-attorneys, pursuant to Business and

Professions Code section 6126.7 to seek civil penalties for the unlawful and misleading advertising by the use of words or phrases, such as “notario” or “notario publico.” Although, in the past, OCTC was charged with investigating such “notario” cases and the Office of General Counsel was charged with initiating civil actions in viable cases, OCTC now handles the litigation of such cases.

On average, for the past five years, OCTC has received approximately 500 non-attorney complaints annually. In 2015, OCTC received 581 non-attorney complaints. As of July 1, there were 316 non-attorney complaints in investigation and 12 non-attorney complaints pending in Intake.