

2012 Annual Report

Background and Jurisdiction

The Colorado Commission on Judicial Discipline (Commission) monitors the judiciary's compliance with the Colorado Code of Judicial Conduct (Code). Formed in 1967 by the amendment to the Colorado Constitution that established a merit system for the appointment of judges, the Commission originally was named the Commission on Judicial Qualifications.

The Commission is charged with enforcing Colo. Const. art. VI, § 23(3)(d), which provides that a justice or judge of any court of record may be disciplined or removed from office for misconduct or may be retired for a disability that interferes with the performance of his or her duties. Colorado Rules of Judicial Discipline (Colo. RJD) are applied in conjunction with the Code in establishing and enforcing standards of professional conduct for the judiciary.

Colo. Const. art. VI, § 23(3)(e) and Colo. RJD 35 provide for privately administered discipline, such as letters of admonition, reprimand, or censure, and for other measures that the Commission believes will improve the conduct of the judge. The Commission also may commence formal proceedings to address misconduct for which privately administered discipline would be inappropriate or inadequate. In formal proceedings, Colo. RJD 36 authorizes the Supreme Court to apply the sanctions of removal, retirement, public reprimand, or public censure or to retire a judge based on a permanent disability. A portion of the annual attorney registration fees paid by each Colorado lawyer and judge provides funding for the Commission's operations.

The Code and Colo. RJD are published in *Court Rules, Book 1* of the Colorado Revised Statutes. The Code was revised by the Supreme Court, effective July 1, 2010. A substantial revision of Colo. RJD became effective by order of the Supreme Court on March 22, 2012. The principal 2012 revisions address jurisdiction, confidentiality, and disabilities, and update terminology and format.

For a fuller understanding of the scope of the Commission's disciplinary authority, it is important to note the following:

- The Commission's jurisdiction is limited to disciplinary matters concerning judges of the District Court, Probate Court, Juvenile Court, County Court, and Court of Appeals, along with justices of the Supreme Court and senior judges (retired judges who fill in during vacations or illnesses and assist with busy dockets). Excluded from this jurisdiction are magistrates, municipal judges, and administrative law judges (ALJs).
- County judges in the City and County of Denver exercise dual jurisdiction over Denver municipal laws and state laws. Because the Commission lacks jurisdiction over persons serving as municipal judges, disciplinary matters for these judges are addressed by the Denver County Court Judicial Discipline Commission.
- The Office of Attorney Regulation Counsel (Attorney Regulation) is charged with disciplinary oversight of attorneys who serve as magistrates, municipal judges, and ALJs, and has jurisdiction over the conduct of lawyers generally, under the Colorado Rules of Professional Conduct (Colo. RPC).

In December 2012, the judiciary comprised 376 trial and appellate court judges, including 175 judges of the District Courts, inclusive of judges serving in the Probate and Juvenile Courts; 129 judges of the County Courts; and 44 senior judges, 21 judges of the Colorado Court of Appeals and seven Colorado Supreme Court justices. One County Court and one Court of Appeals position were vacant at year end.

Among the revisions to Colo. RJD in 2012 was a clarification of jurisdiction. Colo. RJD 4, as revised, provides jurisdiction for the Commission to consider and apply disciplinary measures with respect to allegations of misconduct or disability based on events occurring while the judge was an active or senior judge; however, the complaint must be filed prior to the expiration of one year following the end of the judge's term in office, the date of the judge's resignation or retirement, or the end of the judge's participation in the senior judge program. Jurisdiction is not terminated by resignation or retirement; it continues from the date of filing until a disposition or sanction is determined.

Grounds for Judicial Discipline

The grounds for disciplinary proceedings are provided in Colo. Const., § 23(3)(d), and are further defined in Colo. RJD 5(a):

- 1) willful misconduct in office, including misconduct that, although not related to judicial duties, brings the judicial office into disrepute or is prejudicial to the administration of justice;
- 2) willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties;
- 3) intemperance, including extreme or immoderate personal conduct, recurring loss of temper or control, abuse of alcohol, or the use of illegal narcotic or dangerous drugs; or
- 4) any conduct that constitutes a violation of the Code.

The July 1, 2010 revision of the Code reorganized the nine Canons of the previous Code into four Canons that guide judges and justices in their conduct:

- Canon 1: A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
- Canon 2: A judge shall perform the duties of judicial office impartially, competently, and diligently.
- Canon 3: A judge shall conduct the judge's personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.
- Canon 4: A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Each Canon includes rules in support of the Canon. For example, Rule 2.5(A) requires a judge to perform judicial and administrative duties competently and diligently. There are a total of 38 Rules, which are further supplemented by comments and annotations.

Colo. RJD 5(e) mandates that a judge's error in pretrial orders, evidentiary or procedural rulings, findings of fact, conclusions of

law, sentencing, or other matters under the jurisdiction of the trial court or that are subject to appeal, are not considered grounds for disciplinary measures. Such issues are within the jurisdiction of the trial and appellate courts to resolve, under Colo. Const. art. VI, § 1. In other words, the Commission has no authority to revise or reverse a judge's decision. Complaints that challenge a judge's ruling will be dismissed as appellate in nature, absent grounds for misconduct that are distinct from the appellate issues.

The 2012 revisions to Colo.RJD include the following additional grounds for disciplinary measures, set forth in Colo. RJD 5(b) and (c):

- failure to cooperate with the Commission during an investigation or its consideration of a complaint
- failure to comply with a Commission order.

In addition, contempt proceedings—authorized by Colo. RJD 5(d) and Colo. RJD 4(e)—may be brought against a judge for willful misconduct during disciplinary proceedings.

Colo. Const. art. VI, § 23(3)(d) provides that a judge “may be retired for disability interfering with the performance of his duties which is, or is likely to become, of a permanent character.” In 2012, extensive procedures were adopted in Colo. RJD 33.5 to provide for the evaluation and disposition of complaints involving disabilities. Disability proceedings focus on whether a judge has a physical or mental condition that is adversely affecting the judge's ability to perform judicial functions or to assist with his or her defense in disciplinary proceedings. The emphasis is on diagnosis and treatment and may involve transfer to temporary judicial disability inactive status pending a determination of the nature and degree of disability. A special master may be appointed to evaluate medical evidence and recommend whether the judge can be restored to active status or should be retired because of the disability.

The Commission's disciplinary and disability functions are contrasted with the responsibilities of the Office of Judicial Performance Evaluation (Judicial Performance), which collects views from jurors, litigants, and attorneys in each judicial district regarding a judge's performance; provides periodic reports to the judge; and disseminates public reports of their findings before the judge's retention election.

The Commission and its Executive Director

The Commission comprises ten Colorado citizens who serve without compensation, except for reimbursement of reasonable expenses incurred in performing their duties. The composition of the Commission is determined by Colo. Const. art. VI, § 23(3)(a) and (b). It includes two District Court judges and two County Court judges who are appointed by the Supreme Court; two lawyers who have practiced in Colorado for at least ten years, neither of whom may be a justice or judge, and who are appointed by the Governor with the consent of the Senate; and four citizens who are not and have not been judges, who are not licensed to practice law in Colorado, and who are appointed by the Governor with the consent of the Senate. The list of Commissioners as of December 2012 appears at the end of this report.

Colo. RJD 3 provides for the organization and administration of the Commission, including the Commission's appointment of an Executive Director whose duties include the operation of a permanent office; the screening and investigation of complaints; the maintenance of records and statistics; the employment of investigators and special counsel; the preparation and administration of

the Commission's operating budget; and the publication of this annual report.

Complaints and Disciplinary Proceedings

Colo. RJD 12 through 14 provide for the filing, screening, and preliminary investigation of complaints. Any person may file a complaint alleging judicial misconduct or a disability. The Commission will consider complaints in any written format that describes the alleged misconduct and provides relevant information, such as the case number of the litigation, the date of the alleged misconduct, and relevant documents, including exhibits or excerpts from transcripts (if available). The Commission provides a complaint form on request and through its website that includes important information regarding the grounds for judicial discipline and guidelines for preparation of the complaint. However, complaints also may be in the form of a letter or summary that provides the required information.

Complaints may be mailed, delivered, or faxed to the Commission. Security precautions limit the ability of the Commission to accept complaints by e-mail. Arrangements can be made with the Executive Director to accommodate disabled persons in preparing and filing complaints. The Commission has the authority to initiate a complaint on its own motion.

Disciplinary proceedings involve one or more of three phases: the screening process under Colo. RJD 13; a preliminary investigation under Colo. RJD 14, which could result in a privately administered disposition; or formal proceedings under Colo. RJD 18.

Screening

The Commission or the Executive Director determine “whether a complaint provides sufficient cause to warrant further investigation and evaluation,” pursuant to Colo. RJD 13. Complaints that do not allege sufficient cause are dismissed. The Commission reviews dismissal decisions made by the Executive Director between meetings. Dismissals include complaints that:

- 1) do not allege facts that, if proven, would constitute grounds for disciplinary action under the Canons or Colo.RJD;
- 2) are challenging rulings under the jurisdiction of the trial court or that are subject to appellate review;
- 3) are frivolous; or
- 4) are beyond the jurisdiction of the Commission—for example, a complaint involving alleged misconduct by a lawyer or a deputy sheriff.

Dismissals often involve complaints that are driven by appellate issues rather than ethics issues. It is not uncommon for complainants—particularly those who have appeared in court *pro se*—to allege that a judge's rulings on evidentiary, procedural, or legal issues, with which they disagree, are sufficient to establish misconduct under the Code. As noted in “Grounds for Judicial Discipline” above, Colo. RJD 5(e) prohibits the Commission from initiating disciplinary action when the complaint is disputing rulings that are currently under the jurisdiction of the trial court or are subject to appellate review.

Complaints that are filed solely as a trial tactic to create grounds for the recusal of a judge when there is no reason to recuse under applicable procedural rules—a practice known as “judge-shopping”—will be dismissed as groundless. For examples of complaints that survive screening, see “Review of Complaints Received in 2012,” below.

Preliminary Investigation

At each meeting, the Commission examines complaints that have survived screening. If the Commission deems there are sufficient grounds to initiate disciplinary proceedings, it authorizes the Executive Director to undertake a preliminary investigation under Colo. RJD 14, which includes notice to the judge of the investigation, the nature of the charge, and the name of the complainant (or that the Commission commenced the investigation on its own motion). The judge is afforded an opportunity to respond.

It is the Commission's practice for the Executive Director to begin a preliminary investigation promptly on receipt of credible allegations of unreasonable delays in any litigation, so that a delay that has occurred is not aggravated by awaiting the Commission's consideration at its next meeting. Motions for postconviction relief under Rule 35 of the Rules of Criminal Procedure (CRCrim.P. 35) are a common subject of such complaints. See "Review of Complaints Received in 2012," below.

The preliminary investigation involves inquiries appropriate in the circumstances, such as an examination of court records and transcripts, the judge's response to the complaint, interviews with potential witnesses, and requests for further information from the complainant or the judge. If the preliminary investigation confirms that there is a reasonable basis for the allegations, further investigation will follow, as needed. The complaint is assigned to one of the members of the Commission to evaluate and present to the other members for their consideration; the presenting Commissioner does not vote on its disposition.

When a complaint has been fully evaluated, the dispositions available to the Commission, under Colo. RJD 16 and 35, include:

- 1) dismissal of an unfounded complaint; although a dismissal is not considered disciplinary action, it may be accompanied by the Commission's expression of concern about the circumstances;
- 2) private admonishment for an appearance of impropriety;
- 3) private reprimand or private censure for misconduct that does not merit public sanction by the Supreme Court;
- 4) the deferral of disciplinary proceedings while the judge obtains training, counseling, or medical treatment or provides periodic docket management reports to the Commission;
- 5) the commencement of disability proceedings under Colo. RJD 33.5; or
- 6) a finding of probable cause to commence formal proceedings.

Formal Proceedings

Formal proceedings involve a trial to address misconduct for which private discipline would not be sufficient. If the Commission finds probable cause to commence formal proceedings, it appoints special counsel to review the allegations and evidence of misconduct. On special counsel's concurrence that there is probable cause, special counsel will serve a statement of charges on the judge. The Supreme Court then will appoint three special masters to preside over a hearing to consider the charges. Such proceedings are conducted under Colo. RJD 18 through 33 and the Colorado Rules of Civil Procedure.

Findings by the special masters may result in the Commission's dismissal of the complaint or its recommendation to the Supreme Court for sanctions or other action, under Colo. RJD 36, which may include:

- 1) suspension without pay for a specified period;
- 2) removal from office;
- 3) public reprimand or censure;
- 4) other measures reasonably necessary to curtail or eliminate the judge's misconduct, such as a diversion plan or deferred discipline plan; or
- 5) a remand of the complaint to the Commission for disability proceedings, under Colo. RJD 33.5.

Confidentiality

As provided in Colo. Const. art. VI, § 23(3)(g), "all papers filed with and proceedings before the Commission" are confidential, unless and until such time as the Commission files a recommendation for sanctions with the Colorado Supreme Court.

Revisions to Colo. RJD 6—adopted as Colo. RJD 6.5 in 2012—reinforce this confidentiality requirement, but also provide common sense exceptions that permit the Commission to fulfill its constitutional mandate, as expressed in Colo. RJD 1(b), to protect the public from improper judicial conduct, maintain public confidence in the judiciary, and provide for the fair and expeditious disposition of complaints:

- The Commission may refer complaints that include grounds for violations of Colo. RPC to Attorney Regulation.
- The Commission may disclose details of a complaint to potential witnesses as part of its investigation and may cooperate with investigations by law enforcement, Attorney Regulation, or other regulatory agencies.

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The Bankruptcy Code's anti-discrimination provision prohibits the IRS from seeking the original amount owed by the taxpayer that was reduced pre-petition by the offer-in-compromise.

(In re Mead, 2013 WL 64758 (Bankr. E.D.N.C. 1/4/13))



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- Disciplinary records may be made available on request of the Supreme Court regarding the nomination or appointment of a judge to a new judicial position or the senior judge program.
- If information is requested by Judicial Performance and the Commission determines, in its discretion, that such disclosure is consistent with the Commission's constitutional mandate, it may provide information about a judge's conduct on the condition that Judicial Performance may not publicly disclose such information without independent verification.
- The Commission may request the Supreme Court to authorize the release of information about a complaint if the allegations of misconduct "have become generally known to the public and that, in the interests of justice, the nature of the disciplinary proceedings should be disclosed."

The Commission generally meets bimonthly and may hold special meetings or convene by conference call, when necessary. In 2012, the Commission's regular meetings were held in February, April, June, August, October, and December.

Review of Complaints Received in 2012

Types of Complaints

The Executive Director and the Commission's administrative assistant manage the intake of complaints and requests for information. When appropriate, callers are redirected to Judicial Performance, to Attorney Regulation, or, if a municipal judge is involved, to the city or town where the judge presides. The Commission also responds to inquiries from the judiciary regarding the provisions of the Code.

During 2012, the Commission received 169 written complaints. The Commission received 211 complaints in 2007, 217 in 2008, 190 in 2009, 170 in 2010, and 181 in 2011. In 2012, the Commission also received 393 telephone inquiries and written queries regarding potential complaints from persons who were seeking information or who requested a copy of the complaint form. This compares with 675 inquiries in 2009, 560 in 2010, and 400 in 2011. The Commission attributes the decline in inquiries to the launching of its website in March 2010. The website provides essential information to the public, including an explanation of the Commission's procedures; a downloadable complaint form; frequently asked questions; recent annual reports; and links to the Constitution, Code, and Colo. RJD. The website registered approximately 100 hits per month in 2010, 165 per month in 2011, and 180 per month in 2012. In 2012, the website was contacted by 1,430 visitors.

The complaints received in 2012 addressed the conduct of judges of the District Court, Probate Court, Juvenile Court, or County Court in each of the state's 22 judicial districts. Two complaints were lodged against judges of the Court of Appeals and one complaint was lodged against a justice of the Supreme Court.

Of the 169 complaints made in 2012, 72 arose in the criminal law docket, of which 67 were filed by inmates in Colorado correctional facilities. A total of 46 complaints involved litigation in the general civil docket, of which three were in small claims court. Others included three in traffic cases, 27 in domestic relations cases, four in Juvenile Court matters, six in probate matters, and 13 in mental health cases. Several complaints involved issues involving more than one category of litigation.

In addition to complaints from litigants, many of whom had appeared in court *pro se*, the Commission received complaints from

persons on probation; attorneys who alleged delay in docket management or judicial demeanor issues; and people who were not parties to litigation—for example, friends, witnesses, family members, the media, or courtroom observers. One complaint was initiated by the Commission on its own motion and two were filed by judges, who are required by Rule 2.15 of Canon 2 to report conduct by lawyers or fellow judges involving questions about a lawyer or judge's honesty, trustworthiness, or fitness as a lawyer or judge.

The frequency of various grounds alleged in the 169 complaints is summarized below. Some complaints alleged multiple grounds.

➤ administrative issues with colleagues and staff.....	3
➤ bias or prejudice	19
➤ courtroom demeanor/intemperance.....	12
➤ disputed rulings/appellate issues	101
➤ docket management.....	7
➤ <i>ex parte</i> communications	0
➤ extrajudicial activities, including politics.....	1
➤ financial, personal, or family interests	0
➤ improper public or cyber statements	2
➤ appearance of impropriety	2
➤ inappropriate personal relationships with staff	0
➤ incompetence	2
➤ personal use of court resources.....	0
➤ prejudicial relationships with attorneys or litigants	1
➤ delays in CRCrim.P. 35 motions.....	21
➤ allegations directed at the conduct of officials other than state judges:	
• attorneys, district attorneys, public defenders, ALJs, or magistrates	3
• court records/clerk errors/transcripts	2
• guardian <i>ad litem</i>	1
• police, sheriff, jail	2
• probation, parole, department of corrections	1

Most incidents of misconduct are addressed by private disciplinary letters that include the dispositions described in Complaints and Disciplinary Proceedings, above.

The Executive Director dismissed 149 of the 169 complaints during the screening process. Through its December meeting, the Commission had considered 24 complaints that survived screening, including four carried over from 2011 and 20 received in 2012.

Based on its preliminary investigation, the Commission dismissed 16 of the 24 complaints as unfounded or involving issues under the jurisdiction of the appellate courts. It carried over two matters into 2013 for further evaluation. Following the Commission's final meeting of the year, the Executive Director referred one additional complaint to the Commission that was carried over to 2013.

Dispositions in 2012

In 2012, the Commission applied the dispositions authorized by Colo. RJD 35 to address the misconduct of four judges. Colo. RJD 6(i), as revised in 2012, authorizes the publication in this annual report of summaries of proceedings that have resulted in disciplinary dispositions or sanctions, without disclosing the date or location of the misconduct or the identity of the judge. In 2012, these disciplinary dispositions included:

- A judge struggled with decision making. The Commission's investigation found a pattern of improper rulings and mis-

conduct, including failure to allow a party to respond to allegations; inconsistent bonding practices; failure to follow consistent sentencing procedures in similar cases; changing a sentence issued by a judge in another judicial district; and undue informality with parties and attorneys. This created confusion for parties and attorneys and awkward situations for court staff, some of whom resigned.

The judge's conduct presented issues under Canons 1 and 2, which address the promotion of public confidence in the independence of the judiciary; the impartial, competent, and diligent performance of judicial duties; the right of parties to be heard; cooperation with staff and other judges; and the prompt disposition of the business of the court.

The judge agreed to a temporary suspension of duties during the Commission's investigation. The judge's physician diagnosed a medical condition—confirmed to the Commission by a consulting physician—that was adversely affecting the judge's ability to perform duties competently. The judge resigned, acknowledging that health issues were interfering with professional obligations.

- A judge engaged in partisan politics by publicly endorsing a candidate for district attorney. Rule 4.1(A)(3) of Canon 4 prohibits a judge from endorsing a candidate for any public office. A judicial colleague reminded the judge about the Canon, and the judge then withdrew the endorsement and self-reported the violation to the Commission.

The political consequences of the judge's endorsement were mitigated by the judge's withdrawal of it; however, the Commission found that the endorsement was a clear violation of Canon 4, which prohibits a judge from engaging in "political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary." The Commission issued a private censure under Colo. RJD 35(f) for misconduct involving a substantial breach of the standards of judicial conduct.

- A judge who had been a member of the district attorney's staff before joining the bench was asked by a new prosecutor to comment on the resentencing of a defendant whom the judge had prosecuted a few years earlier. The resentencing was pending before a newly appointed judge with little experience in criminal law cases.

The judge could have privately provided background to the new prosecutor about the case, but the Commission found that the judge was especially concerned about the new judge's lack of experience; and that the judge knew or should have known that views expressed by the judge to the prosecutor about the defendant and the length of the new sentence would be recited by the prosecutor in the resentencing hearing, which in fact is what occurred.

Rule 2.10(A) of Canon 2 prohibits a judge from making "any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing."

The Commission issued a private reprimand under Colo. RJD 35(e) for conduct that did not meet minimum standards.

- A judge found a defendant in contempt and issued a two-day jail sentence for being intoxicated during an appointment

with the probation office and in a court appearance following that appointment.

The defendant and counsel had negotiated a plea bargain with the district attorney; the plea was to be entered with the court after completion of a pre-sentence probation report. After the plea negotiations, the attorney escorted the defendant to the probation office, but did not stay for the interview. A probation officer observed the defendant's condition, performed two preliminary blood alcohol breath tests confirming the defendant's intoxication, and reported the findings to the judge's clerk. The judge requested that the defendant be brought into court.

Despite the defendant's intoxication, the defendant was cooperative with the probation office and was not loud, boisterous, or disrespectful in the courtroom. Although the judge was courteous in demeanor in conducting a brief hearing, the judge issued a ruling abruptly, without addressing the applicable elements of contempt in CRCP 407(a); without expressly considering that defendant's intoxication while at the probation office may have constituted indirect contempt; without attempting to learn if defendant's attorney was still in the courthouse to provide counsel; without providing the defendant an opportunity, under CRCP 407(b), to speak in mitigation; and without considering other options—for example, a friend who could drive the defendant home. Instead, the judge ordered that being intoxicated while in the courthouse was direct contempt, and issued a punitive sanction of two days in jail.

The Commission determined that the judge did not handle the hearing with the due process, fairness, impartiality, and judicial patience required by Rules 2.2 and 2.8 of Canon 2. The Commission issued a private censure to the judge, under Colo. RJD 35(f), for conduct that involved a substantial breach of the standards of judicial conduct.

The corrective action regarding these four complaints contrasted with corrective action taken in one case in 2007, four in 2008, three in 2009, seven in 2010, and ten in 2011. There were no judges who declined to stand for retention after complaints were filed in 2012, compared with none in 2007, seven in 2008, three in 2009, three in 2010, and none in 2011. There was one retirement for medical disability in each of 2006 and 2007, but none in succeeding years. There was one resignation in 2012 while a complaint was pending.

The Commission also monitored periodic docket reports from judges who had not diligently managed their caseloads. As allowed by Colo. RJD 35(a), the Commission expressed concerns to the judge about the circumstances in two complaints that it dismissed. In one case, a judge was cautioned about the use of a slang expression in making a ruling. In another case, a judge was cautioned about impatience with parties who did not successfully mediate a small claims matter during a lengthy evening court session.

Motions for Postconviction Relief

Of the 149 complaints that were dismissed by the Executive Director, 21 involved alleged delays in addressing Colo. RCP 35 motions. These are postconviction relief motions filed by inmates; examples of theories advanced in these motions include sentencing errors, ineffective counsel, newly discovered evidence, prosecutorial misconduct, and perjury. Typically, the judge who receives the

motion is not the judge who presided over the trial, because of several years having elapsed following its conclusion. The transcripts and exhibits usually are voluminous and may require extensive review in order to evaluate the postconviction motion. Confusion among court staff in directing such motions to the correct judge results from the periodic reassignment of judges among the criminal, civil, and domestic dockets or the retirement of the judge who presided. Delays also result from a lack of attention by prosecution or defense counsel to such motions. Such motions also may involve repeated or "successive" contentions by inmates that have been previously addressed.

Although there may be factors not fully within the judge's control, the judge retains the ultimate responsibility for diligently managing his or her docket under Rule 2.5 of Canon 2, and the Commission carefully examines every allegation of delay. However, the circumstances involved in delayed rulings on postconviction motions generally do not involve willful or persistent judicial misconduct that warrants disciplinary action. The Commission's notice to the judge about these delays usually has a constructive effect. Recent efforts by the Office of the State Court Administrator to improve the handling of such motions have reduced incidents of judicial misconduct in these cases.

Examples of Disciplinary Proceedings

Private letters of discipline in recent years have been directed at the following misconduct:

- failure to respond to Commission letters and disciplinary measures
- *ex parte* communications about a pending matter outside the presence of other parties or attorneys
- a lack of diligence in docket management, including delays in issuing decisions
- impatience, loss of temper, or inability to control the courtroom
- disrespectful remarks to the media or through e-mails regarding the conduct of a litigant, a witness, an attorney, or another judge
- intemperance or verbal abuse toward an employee, a person dealing with court staff, or a customer of a business establishment
- undue reliance on staff for matters in which the judge should be fully competent
- driving while impaired or under the influence of alcohol
- sexual harassment or other inappropriate personal conduct involving a court employee, witness, or litigant
- irrelevant, misleading, or incoherent statements during arraignments and sentencing
- rulings from the bench involving unprofessional terminology, including expressions that are viewed as offensive in civilized discourse
- making public statements about a pending matter
- arbitrary rulings made without reference to applicable procedural rules or constitutional due process
- Use of computers and other court resources for personal matters, except for incidental use that does not significantly interfere with judicial responsibilities
- involvement in partisan politics
- failure to comply with rules applicable to retention elections

- disregard of court-imposed gag orders
- lack of cooperation with judicial colleagues
- inappropriate remarks to litigants and lawyers during trials.

Proactive Measures

The Commission participates in judicial education programs to inform new and experienced judges of their ethical duties and responsibilities under the Canons and to explain the Commission's responsibilities for oversight and discipline. In 2010, the Executive Director began periodic visits to each judicial district to update the judiciary on current developments and the Commission's procedures. At the close of 2012, the Executive Director had conducted such meetings in 18 of the 22 judicial districts; meetings will be held with the remaining four districts in 2013. The Commission's website has enhanced the public's understanding of the disciplinary process.

The Commission and Staff

It is essential that the Commission operate effectively and with the public's confidence in monitoring the judiciary's conduct under the Canons. The Commission's decisions are made independently from the Supreme Court, the Office of the State Court Administrator, and Attorney Regulation, but with their logistical support. For example, Attorney Regulation provides investigative resources and special counsel when requested by the Commission.

As of December 31, 2012, the Commission's membership included:

<i>Member</i>	<i>City</i>	<i>Category of Appointment</i>
Hon. Roxanne Bailin, Chair	Boulder	District Judge
Federico C. Alvarez, Vice-Chair	Denver	Attorney
Kathleen Kelley, Secretary	Meeker	Citizen
Albus Brooks	Denver	Citizen
Richard O. Campbell	Denver	Attorney
David Dill	Pueblo	Citizen
David Kenney	Denver	Citizen
Hon. Leroy Kirby	Brighton	County Judge
Hon. Martha T. Minot	Durango	County Judge
Hon. Douglas R. Vannoy	Ft. Morgan	District Judge

William J. Campbell is the Executive Director of the Commission, having been appointed on February 11, 2009 as Interim Executive Director and appointed Executive Director on July 1, 2010. Campbell's appointment followed a thirty-seven-year career as a practicing attorney. He is not related to Commission member Richard O. Campbell. Jennifer Clay served as the Commission's administrative assistant in 2012.

To obtain further information, request a copy of the complaint form, or file a complaint, please refer to the Commission's website or contact the Commission at its new address in the Ralph L. Carr Colorado Judicial Center:

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