

## **Colorado Commission on Judicial Discipline Annual Report for 2016**

### **Background and Jurisdiction**

The Colorado Code of Judicial Conduct (the "Code") includes four Canons that provide the basic principles of judicial ethics, which are supplemented by Rules under each Canon. The Colorado Commission on Judicial Discipline (the "Commission") monitors the judiciary's compliance with these Canons through disciplinary proceedings. Formed in 1967 by the amendment to the Colorado Constitution that established the merit system for the appointment of judges, the Commission originally was designated the Commission on Judicial Qualifications.

The Commission's authority is set forth in Article VI § 23(3) of the Colorado Constitution, 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"), issued by the Colorado Supreme Court, govern the Commission's disciplinary and disability proceedings. The Code and Colo. RJD are published in "Court Rules, Book 1" of *Colorado Revised Statutes*. Substantial revisions to Colo. RJD, effective as of July 1, 2017, were approved by order of the Supreme Court on April 20, 2017.

Colo. Const. Article VI § 23(3)(e) and Colo. RJD 35 provide for remedial action which may result in a confidential disposition such as an admonition, reprimand, or censure regarding the judge's conduct; or a diversion program, including training or docket management reports, that are designed to improve the conduct of the judge. In addition, the Commission 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 to the Supreme Court by each Colorado lawyer and judge provides funding for the Commission's operations.

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

- The Commission's jurisdiction includes disciplinary matters involving judges of the county courts and district courts, together with judges of the Denver Probate Court, Denver Juvenile Court, and Colorado Court of Appeals; the justices of the Colorado Supreme Court; judges and justices in the senior judge program who serve during vacations or illnesses and assist with busy dockets; and retired judges and justices who are appointed by the Supreme Court to preside in specific cases.
- Excluded from the Commission's jurisdiction are magistrates, municipal judges, and administrative law judges ("ALJs").
- Because county court judges in the City and County of Denver have dual jurisdiction over municipal ordinances and state law, disciplinary matters involving these judges are addressed by the Denver County Court Judicial Discipline Commission.
- In addition to its oversight of attorneys under the Colorado Rules of Professional Conduct ("Colo. RPC"), the Office of Attorney Regulation Counsel ("Attorney Regulation") is responsible for examining Code compliance by attorneys who perform judicial functions as magistrates, municipal court judges, and ALJs.

As of December 31, 2016, the Colorado state judiciary was comprised of 341 judges and justices, including 131 in the county courts, of whom 17 served in Denver County Court; 210 in the district courts; one in Denver Probate Court; three in Denver Juvenile Court; 22 on the Court of Appeals; and seven on the Supreme Court. In addition, 43 retired judges served in the senior judge program.

### **Grounds for Judicial Discipline**

Colo. Const. Article VI, Section 23(3)(d) and Colo. RJD 5 provide the grounds for disciplinary proceedings:

- 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
- Willful or persistent failure to perform judicial duties, including incompetent performance of judicial duties
- 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
- Any conduct that constitutes a violation of the Canons.

Colo. Const. Article VI, Section 23(3)(d) also 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."

The Canons provide guidance for a judge's conduct in the courthouse and in the community:

**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 provides Rules in support of the Canon, e.g., Canon Rule 2.2 requires a judge to serve "fairly and impartially," and Canon Rule 2.5(A) requires a judge to "perform judicial and administrative duties competently and diligently." The Code includes 38 Canon Rules, which are further supplemented by comments and annotations.

The Commission has no authority to revise or reverse a judge's decision. Colo. RJD 5(e) mandates that disputes about pre-trial orders, evidentiary or procedural rulings, findings of fact, conclusions of law, sentencing, or other aspects of litigation are not considered grounds for disciplinary measures. Such disputes are to be resolved by the trial and appellate courts in accordance with the powers vested in the judiciary by Colo. Const. Article VI, Section 1. Complaints that focus on these matters will be dismissed, unless there are grounds for a Canon violation that are distinct from issues under the jurisdiction of the courts.

Colo. RJD 33.5 provides extensive procedures 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.

The Commission's disciplinary and disability functions are contrasted with the responsibilities of the Office of Judicial Performance Evaluation ("Judicial Performance"). Judicial Performance collects views from jurors, litigants, attorneys, other judges, law enforcement, court staff, and others involved in judicial proceedings regarding a judge's

competence and overall performance; provides periodic performance reports to the judge; and disseminates public reports of its findings prior to the judge's retention election.

### **The Commission and its Executive Director**

The Commission is comprised of 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. Article VI, Section 23 (3)(a) and (b). It includes two district court judges and two county court judges, who are selected 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. Members serve four year terms and may be reappointed. Members of the Commission as of December 2016 are listed at the end of this report.

Colo. RJD 3 provides for the organization and administration of the Commission, including the appointment of an Executive Director whose duties, subject to the general oversight of members of the Commission, include the operation of a permanent office; the preliminary evaluation 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.

The Commission generally meets bi-monthly and may hold special meetings or convene by conference call, when necessary. In 2016, the Commission's regular meetings were held in February, April, June, August, October, and December.

### **Complaints and Requests for Evaluation of Judicial Conduct**

Any person may report allegations of judicial misconduct or a judicial disability to the Commission. In 2016 and continuing through June 30, 2017, such allegations could be filed on the Commission's complaint form or in the form of a letter or email that the Commission processed as a complaint. However, the Commission's experience has been that many persons filing "complaints" viewed the Commission's authority more broadly than the jurisdiction granted to it under the Colorado Constitution. Complaints often focused on disputed legal issues that were reserved for the courts or on the conduct of persons other than judges, such as district attorneys, defense attorneys, court staff, probation officers, law enforcement, or the staff of the Department of Corrections. The

Commission was concerned that the complaint terminology led to unrealistic expectations by the complainants about the authority of the Commission.

Therefore, the Commission concluded that its procedural rules should be clarified. Colo. RJD 12, as of July 1, 2017, provides for a complainant to file a Request for Evaluation of Judicial Conduct (an "RFE") to report circumstances that may warrant the commencement of disciplinary or disability proceedings. The Commission anticipates that the emphasis on judicial conduct, in the information to be provided in the RFE, will promote public understanding about the Commission's role and encourage complainants to focus on judicial ethics rather than disputed decisions.

### **Preliminary Proceedings**

The Commission will conduct preliminary proceedings to evaluate, under Colo. RJD 13, whether the situation described in the RFE falls within the Commission's jurisdiction. Upon a finding of a reasonable basis on which to commence disciplinary or disability proceedings, the Commission, in accordance with Colo. RJD 13(b), will consider the RFE as a complaint.

In the absence of a reasonable basis, the Commission will close the file and take no further action other than to advise the complainant of its decision. The judge will not be notified of the RFE or the Commission's decision.

Although the Commission will provide RFE forms for guidance in requesting an evaluation of judicial conduct, it will consider an RFE in the form of a letter or other format which describes the alleged misconduct or disability and provides relevant information, such as the case number of the litigation, the date of the incident or incidents involved, pleadings, orders, or excerpts from transcripts.

The RFE may be mailed, delivered, emailed, or faxed to the Commission. Arrangements can be made with the Commission's staff to accommodate disabled persons in preparing and filing an RFE. The Commission is authorized to determine that there is a reasonable basis for a complaint and commence further proceedings on its own motion, without receiving an RFE.

## **Investigation and Further Action**

Under the newly-revised provisions of Colo. RJD, the Commission's proceedings, after a finding of a reasonable basis for a complaint, may involve several phases, including: (1) an **investigation and notice to the judge**, under Colo. RJD 14; (2) a **determination that remedial disciplinary measures, disability proceedings, or formal proceedings are warranted**, under Colo. RJD 16 (3) and/or directions to the judge to undergo an **independent medical examination**, as authorized by Colo. RJD 15. If necessary, the Commission may request the Supreme Court to order the temporary suspension of a Judge under Colo. RJD 34, with pay, pending the resolution of pending proceedings.

### Investigation and Notice to the Judge

Under the provisions of Colo. RJD in 2016 and through June 30, 2017, the members of the Commission, at each of their meetings, would review the Executive Director's actions in dismissing complaints or referring them to the Commission for further action. Under the revised provisions of Colo. RJD, the Commission will consider the Executive Director's evaluation of RFEs and authorize an investigation of those RFEs it deems sufficient to warrant consideration as a complaint. The Commission will authorize the Executive Director and, if necessary, an investigator whose services are available to the Commission through Attorney Regulation, to conduct a thorough investigation of each complaint under Colo. RJD 14. The Executive Director will notify the judge of the investigation and the nature of the allegations. The judge is afforded an opportunity to respond.

Under former and current provisions of Colo. RJD 14(c), the Executive Director is authorized to begin an investigation on receipt of credible allegations of a judge's failure to preside diligently or other circumstances which may require prompt attention before the next meeting of the Commission.

Each investigation involves measures that are appropriate in the circumstances, such as an examination of court records; a review of written transcripts or audio recordings of proceedings; interviews of witnesses; an evaluation of the judge's response; and requests for further information from the complainant or the judge.

### Consideration and Dispositions

Each complaint is assigned to one of the members of the Commission to evaluate and present to the other members for their consideration, in accord with Colo. RJD 16, which requires that allegations of misconduct must be established by a preponderance of the

evidence. A decision is made by majority vote of the members participating in the meeting, exclusive of the presenting member.

When a complaint has been considered by the Commission, the dispositions available, under Colo. RJD 16 and 35, include:

- dismissal of a complaint in which misconduct cannot be established by a preponderance of the evidence. However, a dismissal may be accompanied by the Commission's expression of concern about the circumstances.
- private admonishment for an appearance of impropriety, even though the judge's conduct in other respects meets minimum standards.
- private reprimand or private censure for misconduct that does not merit public sanction by the Supreme Court.
- the deferral of disciplinary proceedings under a diversion plan in which the judge obtains training, counseling, or medical treatment or provides periodic docket management reports to the Commission.
- a stipulated private disposition that could include the judge's resignation or retirement.
- the commencement of disability proceedings under Colo. RJD 33.5.
- a finding of probable cause to commence formal proceedings under Colo. RJD 18.

#### Independent Medical Examination

In situations where the Commission deems it necessary, it may order the judge to undergo an examination by a qualified provider to evaluate the judge's physical and mental health. This may lead to a diversion program involving medical treatment, counseling, and/or training, rather than disciplinary measures. It could also result in commencement of disability proceedings.

#### Disability Proceedings

Colo. RJD 33.5 provides extensive procedures and requirements for conducting proceedings in which the Commission can evaluate and consider whether a "judge suffers from a physical or mental condition that effects the judge's ability to perform judicial functions or to assist with his or her defense in disciplinary proceedings."

The Supreme Court may enter orders appropriate to the nature and anticipated duration of the disability, including transfer of the Judge to temporary judicial disability status; retirement for a permanent disability; and/or transfer of the Judge to lawyer disability status, if the disability also prevents the Judge from practicing law.

## Formal Proceedings

Formal proceedings involve a trial conducted under Colorado Rules of Civil Procedure to address allegations of misconduct which the Commission determines cannot be adequately addressed by informal proceedings and private remedial measures. 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 prepare and serve a statement of charges on the judge. The Commission then requests the Supreme Court to appoint three special masters – from among retired justices or active or retired judges who have no conflicts of interest and are able to serve diligently and impartially – to preside over the trial.

Based on findings made by the special masters or a stipulated resolution of the charges, the Commission will file a recommendation for action by the Supreme Court, under Colo. RJD 36 and 37, which may involve dismissal of the charges; a remand of the complaint to the Commission for disability proceedings; or one or more of the following sanctions:

- Suspension without pay for a specified period
- Removal from office or retirement
- Public reprimand or censure
- Privately administered discipline under Colo. RJD 35
- Measures reasonably necessary to curtail or eliminate the judge's misconduct, such as a diversion plan or deferred discipline plan.

## Confidentiality

As provided in Colo. Const. Article VI, Section 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 with the Colorado Supreme Court. However, Colo. RJD 6.5 clarifies that this confidentiality requirement does not prohibit the Commission from interviewing witnesses; cooperating with Attorney Regulation or law enforcement; or responding to requests from the Supreme Court or judicial nominating commissions concerning the disciplinary record, if any, of a judge who is under consideration for another judicial position. The Commission's proceedings, including its consideration of potential disciplinary measures, remain confidential, as required by the Constitution.

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.



In addition, Colo. RJD 6.5 authorizes the publication in this annual report of a summary of proceedings that resulted in a private disposition or a public sanction; and authorizes the Commission or a judge to request that the Supreme Court approve the release of information about a disciplinary proceeding if the allegations of misconduct “have become generally known to the public and, in the interest of justice, should be publicly disclosed.”

## **Review of Complaints Received in 2016**

### Types of Complaints

The Executive Director and the Commission’s administrative assistant have managed the intake of complaints and requests for information prior to adoption of the 2017 revisions to Colo. RJD. This process will continue as applied to the evaluation of RFEs. When appropriate, callers are redirected to Judicial Performance, Attorney Regulation, or, if a municipal judge is involved, the city or town where the judge presides. The Commission also responds to inquiries from the judiciary regarding the provisions of the Code.

During 2016, the Commission received 152 written complaints. This is fewer than the 175 complaints received in 2015 and the average of 180 complaints received in recent years. Beginning in September 2014, the Commission began receiving complaints by email; 61 of the 152 complaints in 2016 were filed by email.

The Commission launched its website in 2010. The website provides essential information to the public, including an explanation of the Commission’s procedures; downloadable forms; frequently asked questions; recent annual reports; and links to the Colorado Constitution, Code, and Colo. RJD. The website has significantly increased the transparency of the Commission’s authority and proceedings. The public’s contacts with the Commission currently include approximately 1,700 web hits and 450 phone inquiries annually, compared with 700 to 800 contacts solely by phone prior to establishing the website.

In 2016, complaints were lodged against judges in 20 of the state’s 22 judicial districts. Two complaints were filed against judges of the Court of Appeals and one concerned the justices of the Supreme Court.

Of the 152 complaints received in 2016, 75 arose in the criminal law docket, many of which were filed by inmates in county jails or the Colorado Department of Corrections. A total of 39 complaints involved litigation in the general civil docket, of which three were in small claims court and two were filed by inmates as *habeas corpus* petitions. Other

complaints included four in traffic cases; 25 in domestic relations cases, predominately in parenting plan disputes; five in juvenile court matters, usually involving the potential termination of parental rights; and four in probate matters. Several complaints involved issues involving more than one category of litigation or more than one type of court.

While most of the complaints were filed by litigants, many of whom had appeared in court *pro se*, complaints were also filed by attorneys; by relatives, friends, or court observers; and by two judges, including one judge's self-report of the judge's own behavior that involved potential grounds for misconduct.

The frequency of the types of allegations in 2016 is summarized below. Some complaints involved multiple allegations.

- Administrative issues with colleagues or staff: 1
- Allegations directed at the conduct of officials other than state judges:
  - Attorneys, DAs, public defenders, court staff, probation officers, ALJs, or magistrates: 7
  - Law Enforcement or Department of Corrections Staff: 4
- Bias, prejudice, or lack of impartiality: 26
- Courtroom demeanor/intemperance: 12
- Disputed rulings/appellate issues
  - Appointment, inadequacy or misconduct of counsel: 5
  - Bonds, sentencing, restitution, probation, unlawful detainer: 17
  - Civil protection orders: 11
  - Collections: 1
  - Competency/mental health: 10
  - Contempt proceedings: 1
  - Rule 120 mortgage foreclosures: 5
  - *Habeas corpus* petitions: 2
  - Jurors: selection/service/misconduct: 1
  - Juvenile – dependency & neglect, child placement: 5
  - Landlord/tenant: 2
  - Permanent orders, domestic violence, parenting plans, post decree motions: 25
  - Probate – estates, guardians, conservators: 4
  - Procedural or constitutional rules: 13
  - Relevance/admissibility of evidence: 7
  - Service of Process: 1
  - Sovereign Citizen Claims: 5
  - Statutory or case law issues: 1
- Disability/ADA: 1

- *Ex parte* communications: 3
- Failure to manage the docket diligently, including lengthy delays in issuing rulings: 13
- Prejudicial relationships with attorneys or litigants: 4
- Recusal Procedures: 5
- Victim's Rights: 1

The dispositions authorized by Colo. RJD 16 and 35 are described above in **Investigation and Further Action – Consideration and Dispositions**. Most incidents of misconduct are addressed through remedial action, including private disciplinary letters or diversion plans.

In 2016, the Executive Director dismissed 130 complaints under Colo. RJD 13(b) during the preliminary evaluation phase. While the Commission is provided with copies of the Executive Director's dismissal letters for discussion at its next meeting, it also receives requests for reconsideration of dismissal from complainants. Three such requests were evaluated and the dismissals affirmed.

Through its December 2016 meeting, the Commission had considered 24 complaints referred to it by the Executive Director, including three complaints carried over from 2015. After further investigation, the Commission dismissed 17 of these 24 complaints because they did not include evidence of misconduct that would satisfy the preponderance of the evidence standard in Colo. RJD 16(c); involved issues under the jurisdiction of the appellate courts; or were directed at the conduct of persons other than judges.

### **Disciplinary Measures Applied in 2016**

Colo. RJD 6.5 authorizes the publication in this annual report of summaries of proceedings which have resulted in disciplinary dispositions or sanctions without disclosing the date or location of the misconduct or the identity of the judge.

The Commission dismissed two complaints with expressions of concern to improve the judge's future compliance with the Canons; issued one private reprimand and one private censure; ordered two diversion plans; commenced one formal proceeding; and carried over three complaints to 2017.

One of the dismissals that included an expression of concern involved delays resulting from confusion among the complainant, court staff, and the judge about several motions and an appeal pending simultaneously. Another dismissal expressed concern about the time that lapsed between a decree of dissolution of marriage and the issuance of findings

and conclusions regarding permanent orders that involved unusually complex financial and property issues.

The reprimand involved a judge's 18 month delay in addressing an inmate's motion for postconviction relief under Rule 35 of Colorado Rules of Criminal Procedure. The censure involved a judge who did not act impartially, exceeded the boundaries of reasonable accommodations for a self-represented litigant, provided the litigant advice, and acknowledged on the record that he should have recused.

One diversion plan required periodic docket management reports to improve the judge's diligence. Another plan required the judge to seek medical care and counseling to improve the judge's stress management.

The Commission commenced a formal proceeding involving allegations of misconduct by County Court Judge Jonathan L. Walker. Initially, this involved a report of several instances in which the judge allegedly created a hostile work environment for certain court staff. The judge stipulated to a temporary suspension by the Supreme Court under Colo. RJD 34, pending the disposition of further disciplinary proceedings. A formal hearing before three special masters, appointed by the Court, was scheduled to begin on February 27, 2017. In addition to the initial report concerning the work environment, an investigator appointed by the Commission identified additional allegations of misconduct, including failure to recuse promptly from cases involving the attorney he retained to advise him prior to the suspension; modifying certain plea agreements without the approval of the parties who had already signed them; and retaliating against court staff who had complained about his conduct.

These allegations potentially implicated Canon Rules 1.2 (public confidence in the judiciary), 2.2 (impartiality and fairness), 2.3 (harassment), 2.8 (courtesy to staff), 2.11 (recusal), and 2.16 (retaliation).

The Commission and the judge's counsel agreed to mediation which resulted in a stipulation between the judge and the Commission for the judge to retire, effective February 15, 2017. The Commission recommended that the Supreme Court approve the stipulation, and the trial before the special masters was cancelled. At that point, the proceedings became public, in accordance with Const.Art.VI, Section 23(3)(g) and Colo. RJD 37(e). The Supreme Court, issued a public statement on February 9, 2017 in which it summarized the charges and the judge's defenses and approved the stipulated resolution.

The disciplinary measures applied by the Commission in 2016 in these seven situations contrasted with corrective action taken in one case in 2007, four in 2008, three in 2009, seven in 2010, ten in 2011, four in 2012, three in 2013, two in 2014, and three in 2015. There were no judges who declined to stand for retention after complaints were filed in 2016, compared with none in 2007, seven in 2008, three in 2009, three in 2010, and none in 2011 through 2015. There was one retirement for medical disability in 2006 and another in 2007. While disciplinary proceedings were pending in 2012, a judge resigned after receiving a diagnosis of a medical condition that had been affecting the judge's ability to perform judicial duties competently; and in 2013, another judge resigned because of declining health.

### Motions for Postconviction Relief

The number of complaints involving a lack of diligence in ruling on motions for postconviction relief has declined significantly after SCAO, on the recommendation of the Commission, implemented measures to expedite the consideration of such motions. There were 21 such complaints in 2012, six in 2013, none in 2014, and five in 2015. The Commission considered four such complaints in 2016, one of which resulted in the reprimand described above.

### Examples of Disciplinary Proceedings

Private disciplinary action in recent years has 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
- lack of diligence in docket management, for example, a substantial delay in issuing a decision
- delays in docket management caused by medical conditions requiring diversion programs for treatment
- unprofessional demeanor, including 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, attorney, 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
- a pattern of errors in handling trials or issuing rulings that indicate a lack of competence
- making public statements about another judge's case
- arbitrary rulings in contempt proceedings that resulted in incarceration without due process
- use of computers, staff, and other court resources for personal or financial matters, except for incidental usage 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
- prohibiting a process server from subsequent cases without affording the process server an opportunity to be heard
- inappropriate remarks to litigants and lawyers during trials or recesses
- discourtesy toward judicial colleagues, administrative staff, and sheriff deputies
- failure to follow applicable procedural rules and Canon rules in considering whether the judge should disqualify (recuse) from presiding
- behavior that the judge may not recognize as a symptom of a medical condition that affects judicial performance.

## **Proactive Measures**

The Executive Director participates in an annual new judge orientation program to inform new Colorado judges of their ethical duties and responsibilities under the Canons and to explain the Commission's rules and procedures; and has made presentations at the annual judicial conference for all Colorado judges. In 2016, five judges contacted the Executive Director to inquire about the potential application of the Canons to unique situations.

The Executive Director also attends the annual conference of judicial disciplinary commissions sponsored by the Association of Judicial Disciplinary Counsel and the biannual College of Judicial Ethics presented by the National Commission on State Courts. He has made presentations in training programs held in Colorado for judges and lawyers from other countries. In 2016, he participated in a national conference on recusal procedures, sponsored by the Institute for the Advancement of the American Legal System.

Based on the inquiries and complaints it receives, the Commission notifies SCAO of the type of judicial conduct that may benefit from judicial education programs or changes in administrative procedures.

### **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 Attorney Regulation and SCAO but with their logistical support. When requested, Attorney Regulation provides investigative resources and special counsel to the Commission. SCAO notifies the Commission of potential misconduct reported by court staff.

As of December 31, 2016, the Commission's membership included:

<u>Member</u>	<u>City</u>	<u>Category of Appointment</u>
Hon. Martha T. Minot, Chair	Durango	County Judge
Richard O. Campbell, Vice-Chair	Denver	Attorney
Kathleen Kelley, Secretary	Meeker	Citizen
Bruce A. Casias	Lakewood	Citizen
Hon. Leroy D. Kirby	Brighton	County Judge
Elizabeth Espinosa Krupa	Denver	Attorney
Yolanda Lyons	Monument	Citizen
Hon. William D. Robbins	Denver	District Judge
Hon. Ted C. Tow	Brighton	District Judge

The Commission extends its thanks and appreciation for the service of Sonia Ann Negrete-Winn, of Pueblo, as a member of the Commission, who resigned in December to join her family in another state. To fill the vacant seat created by her resignation, Governor Hickenlooper appointed Drucilla Pugh, also of Pueblo. Her appointment was confirmed by the Colorado Senate in March 2017.

William J. Campbell is the Executive Director of the Commission, having been appointed on February 11, 2009 as Interim Executive Director and as Executive Director on July 1, 2010. Mr. Campbell's appointment followed a 37 year career as a practicing attorney. He is not related to Commission member Richard O. Campbell. Lauren Eisenbach is the Commission's administrative assistant.

To request the complaint form in effect through June 30, 2017, the Request for Evaluation of Judicial Conduct in effect thereafter, or for further information, please refer to the Commission's website – [www.coloradojudicialdiscipline.com](http://www.coloradojudicialdiscipline.com) – or contact the Commission directly at:

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