



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION
P.O. BOX 27248
ALBUQUERQUE, NM 87125
(505) 222-9353
WWW.NMJSC.ORG



2012 ANNUAL REPORT





FY 2012 ANNUAL REPORT

COMMISSIONERS

Joyce Bustos
Chair

Malinda Williams
Vice-Chair

Michael M. Castro
Norman L. Gagne, Esq.

Hon. Buddy J. Hall

Hon. Nan G. Nash

Beth Paiz

Hon. Jerry H. Ritter, Jr.

Alfonso Solis

Norman S. Thayer, Esq.

Darla Wax

STAFF

Randall D. Roybal, Esq.
Executive Director & General Counsel

Robin S. Hammer, Esq.
Senior Investigative Trial Counsel

Phyllis A. Dominguez, Esq.
Investigative Trial Counsel

Evonne Sanchez
Paralegal

Rosalie D. Anaya
Investigator

Shariesse T. McCannon
Clerk of the Commission & Legal Assistant

Krista M. Gianes
Financial Specialist

MAILING ADDRESS

P.O. Box 27248
Albuquerque, NM 87125-7248

PHYSICAL ADDRESS

111 Lomas Blvd. NW, Ste. 220
Albuquerque, NM 87102-2368

TELEPHONE

(505) 222-9353

INTERNET

www.nmjsc.org

Graphic Design & Layout

Randall D. Roybal, Esq.

Select Photos

©2007-2009 by Michael Jacobs,
Rio Grande Studios, Albuquerque, NM

JUDICIAL STANDARDS COMMISSION



STATE OF NEW MEXICO
JUDICIAL STANDARDS COMMISSION

POST OFFICE BOX 27248
ALBUQUERQUE, NEW MEXICO 87125-7248
(505) 222-9353
WWW.NMJSC.ORG

JOYCE BUSTOS
CHAIR

MALINDA WILLIAMS
VICE-CHAIR

MICHAEL M. CASTRO
NORMAN L. GAGNE, ESQ.
HON. BUDDY J. HALL
HON. NAN G. NASH
BETH PAIZ
HON. JERRY H. RITTER, JR.
ALFONSO SOLIS
NORMAN S. THAYER, ESQ.
DARLA WAX

RANDALL D. ROYBAL, ESQ.
EXECUTIVE DIRECTOR & GENERAL COUNSEL

ROBIN S. HAMMER, ESQ.
SENIOR INVESTIGATIVE TRIAL COUNSEL

PHYLLIS A. DOMINGUEZ, ESQ.
INVESTIGATIVE TRIAL COUNSEL

September 1, 2012

Honorable Governor Susana Martinez
Honorable Senators and Representatives of the New Mexico Legislature
Honorable Chief Justice and Justices of the New Mexico Supreme Court
Citizens of the State of New Mexico

Ladies and Gentlemen:

The Commission has once again experienced an interesting and challenging year. High profile cases have continued to result in attention from the media. Two new commissioners were appointed this year, and it is anticipated that one more will be appointed by the end of the calendar year. Despite these changes, the Commission has continued to work efficiently and effectively for the citizens of the state.

The Commission continues to face severe financial problems due to the budget cuts. From FY 2009 through FY 2012, the Commission's funding was cut approximately \$145,000.00 (17%). The Commission has been working to restore funding to the FY 2009 level; and it has also been working to create a permanent non-reverting fund for cost reimbursements collected from judges. This would ensure the Commission's ability to continue the high volume of work we are faced with each year. In 2012, the Commission received 230 complaints (the highest amount ever), and these resulted in 70% of the complaints (162) being docketed.

The Commission's Executive Director, Randy Roybal, and his staff have continued to provide a high level of support to the Commission. Their dedication and integrity have made it a pleasure and an honor to serve on this commission.

Sincerely yours,

A handwritten signature in blue ink that reads "Joyce Bustos". The signature is written in a cursive, flowing style.

Joyce Bustos
Chair



TABLE OF CONTENTS

Commissioners & Staff	1
Commission Terms & Positions	1
Commissioners and Statutory Position Terms as of June 30, 2012	1
Commission Members as of June 30, 2012	2
Commission Staff Members	6
Organizational Overview	9
Jurisdiction & Authority	9
Confidentiality	9
Actions the Commission Cannot Take	10
Filing, Review and Investigation of Complaints	10
Actions the Commission Can Take on Complaints	10
Initial Inquiry	10
Preliminary Investigation	10
Formal Proceedings	10
Dispositions	11
Sanctions	11
Statistics	12
Complaints, Dispositions & Performance: July 1, 2011–June 30, 2012	12
Complaints Received	12
10-Year History of Written Complaints	12
Sources of Verified Complaints	12
Judges Reviewed	13
Case Dispositions	13
Historical Summary of Cases Filed in Supreme Court	14
Public Cases Disposed by Termination of Judicial Office	15
FY 2012 Legislative Performance Measures	16
Historical Summary of Informal Case Dispositions	16
Cautionary Letters	16
Mentorships	17
Confidential Stipulations	17
Commission Proceedings	18
Proceedings before the Commission: July 1, 2011–June 30, 2012	18
Formal Proceedings	19
Informal Proceedings	43

Private Letters of Caution	43
Informal Remedial Measures	44
Informal Stipulations.....	44
Current or Former Judges with Ongoing Duties to Comply with Supreme Court-Ordered Probation, Monitoring, or Other Conditions	45
All Disciplinary Cases.....	45
Other Related State Cases.....	46
State Case Regarding Commission Subpoenas	46
Finances.....	47
Expenditures & Cost Reimbursement	47
FY 2012 Expenditures from the General Fund	47
Investigation & Trial Cost Reimbursement Fund	47
Fines and Cost Reimbursement Distinguished.....	48
Outstanding Debt(s) to Commission	48
FY 2012 General Fund Appropriation Compared to General Fund Expenditures	48
Agency 10-Year General Fund Funding Profile	49



COMMISSION TERMS & POSITIONS

As set forth in Article VI, §32 of the New Mexico Constitution and New Mexico Statutes Annotated §34-10-1 through §34-10-4, the Judicial Standards Commission is composed of eleven members. Six members are lay citizens appointed by the Governor, two members are attorneys appointed by the Board of Bar Commissioners, two members are justices or judges of the New Mexico Supreme Court, Court of Appeals or District Courts appointed by the Supreme Court, and one member is a magistrate judge appointed by the Supreme Court. Lay members are appointed to staggered five-year terms, while attorney and judicial members are appointed to staggered four-year terms. Commissioners are not paid a salary, but receive per diem and reimbursement for expenses as provided by law. Each year the Commissioners elect a Chair and Vice-Chair from the lay membership.

Pursuant to NMSA §34-10-1(A), no more than four of the six positions appointed by the Governor may be occupied by persons from the same political party. Party affiliations are noted below in parentheses for the gubernatorial appointees (positions 1–5 and 10).

COMMISSIONERS AND STATUTORY POSITION TERMS AS OF JUNE 30, 2012

See NMSA 1978, §34-10-1, as amended June 1999

<u>Position No.</u>	<u>Filled By</u>	<u>Appointed By</u>	<u>Statutory Term</u>
1	Darla Wax (R)	Governor	07/01/09–06/30/14
2	Michael M. Castro (R)	Governor	07/01/10–06/30/15
3	Alfonso (Al) Solis (R)	Governor	07/01/11–06/30/16
4	Beth Paiz (R)	Governor	07/01/07–06/30/12
5	Joyce Bustos (D)	Governor	07/01/08–06/30/13
6	Norman S. Thayer, Esq.	State Bar	07/01/10–06/30/14
7	Rosemary L. Maestas-Swazo, Esq.	State Bar	07/01/08–06/30/12
8	Hon. Nan G. Nash	Supreme Court	07/01/11–06/30/15
9	Hon. Jerry H. Ritter, Jr.	Supreme Court	07/01/09–06/30/13
10	Malinda Williams (D)	Governor	07/01/09–06/30/14
11	Hon. Buddy J. Hall	Supreme Court	07/01/11–06/30/15

Outgoing Members in FY 2012: Larry Tackman (February 2012) and Rosemary L. Maestas-Swazo, Esq. (June 2012)

Incoming Members in FY 2013: Norman L. Gagne, Esq. (July 2012)





COMMISSION MEMBERS

AS OF JUNE 30, 2012



JOYCE BUSTOS was appointed to the Commission by Governor Susana Martinez in April 2011. In February 2012, she was elected Chair of the Commission. Mrs. Bustos grew up in Chimayo, New Mexico, and graduated from McCurdy High School. Mrs. Bustos received a bachelor of science degree in secondary education in 1977, and a masters degree in public administration (Criminal Justice concentration) in 1988 from the University of New Mexico. She retired from New Mexico state government after 25 years of service, primarily in the criminal justice system. She was employed by the New Mexico Department of Corrections for 11 years, the Department of Public Safety for 3 years, and as the Director of the Administrative Office of the District Attorneys' for 10 years. She is currently an independent criminal justice consultant. She stays busy raising her two teenage daughters and helping her husband with his

real estate business.



MICHAEL M. CASTRO was appointed to the Commission by Governor Susana Martinez in March 2011. He is a former Deputy Chief of Police for the Albuquerque Police Department. He served in the department for 26 years before retiring in 2010. He is a founder and partner of Roadrunner Child Development, a non-profit child development center servicing economically challenged families. He is also the owner of Shepherd's Properties, a real estate investment and management company. Mr. Castro remains on contract with the City of Albuquerque performing as the Project Manager for the Albuquerque Regional PPC and 3-Gun Tournament, as well the National Rifle Association National Police Shooting Championships. Mr. Castro served in the United States Naval Reserve and was activated following September 11 to serve in Operation Enduring Freedom. He earned his bachelor's degree from the University

of New Mexico and holds a master's degree in organizational management from the University of Phoenix. He is also a graduate of the Federal Bureau of Investigation's National Academy Class 226.



HON. BUDDY J. HALL was appointed to the Commission by the New Mexico Supreme Court in 2002, and was reappointed in 2003, 2007, and 2011. Judge Hall earned an associate of science degree from Clarendon Junior College in 1982 and a bachelor of science degree in animal science from the Texas Tech University in 1984. He has served on the bench of the De Baca County Magistrate Court since 1995. In addition to his judicial duties, Judge Hall has served on several Magistrate Court boards and committees, including the Magistrate Board of Directors, Data Standards, Classification Committee (former member and past chairman), Clerks' Manual Review Panel, and the Magistrate Training Conference Panel. Judge Hall has also served with other community and charitable organizations, including the Community Corrections Advisory Panel, De Baca County Health Council, De Baca County DWI Task Force, Rotary International, De Baca County Chamber of Commerce, and the Valley Volunteer Fire Department. He also serves as the public address announcer for the Fort Sumner High School football games and volunteers at the school for other athletic as well as academic events. He is also a lay minister.



ROSEMARY L. MAESTAS-SWAZO, ESQ. was appointed to the Commission by the New Mexico State Bar Board of Bar Commissioners in July 2008. She earned a bachelor of arts degree in political science from the University of New Mexico in 1983, a bachelor of accountancy degree and masters of business administration, both *summa*

cum laude from the College of Santa Fe in 1985 and 1987, and a *juris doctor* degree from the University of New Mexico Law School in 1995. Ms. Maestas-Swazo currently serves as in-house General Counsel with the Pueblo of Pojoaque. Ms. Maestas-Swazo served as corporate counsel at the Public Service Company of New Mexico for four years. She previously served for six years as an assistant attorney general to both Attorneys General Tom Udall and Patricia Madrid, in the Civil and Special Consumer Projects Divisions, and served as the first Special Counsel on Indian Affairs. Ms. Maestas-Swazo also previously served as an appellate attorney with the U.S. Department of Justice, Environmental and Natural Resources Division, Appellate Section. Prior to practicing law, Ms. Maestas-Swazo held several positions with the Los Alamos National Laboratory. Her volunteer activities and awards include past president of the New Mexico Indian Bar Association and State Bar of New Mexico's Indian Law Section, State Bar Code of Professional Conduct Committee, State Bar Commission on Professionalism. Ms. Maestas-Swazo received both the YWCA Women on the Move Award and the State Bar of New Mexico's Outstanding Contribution Award in 2004.

HON. NAN G. NASH was appointed to the Commission by the New Mexico Supreme Court in 2007. Judge Nash earned a bachelor of science degree in 1985 in environmental biology and public policy and a *juris doctor* degree in 1989 from Indiana University. She is a district judge and has served on the bench of the Second Judicial District Court in Bernalillo County since 2003. Judge Nash served as the presiding judge of the family court from 2004 to 2007, and is currently assigned to the civil court. Prior to taking the bench, she was a family court hearing officer, a special commissioner in domestic violence, director of the court alternatives division, and an associate attorney at an insurance defense law firm in Albuquerque. Judge Nash is also an adjunct professor at the University of New Mexico School of Law and has taught courses in alternative dispute resolution, a family violence seminar, and family mediation training. Judge Nash is involved in numerous professional committees and task forces, particularly in the areas of domestic violence and alternative dispute resolution.



BETH PAIZ was appointed to the Commission by Governor Susana Martinez in February 2012. She has been a life-long law enforcement officer. Prior to her retirement in May 2012, she was the highest ranking female officer of the Albuquerque Police Department ("APD") as the Deputy Chief of Field Services. Beginning her career in 1994 as a patrol officer, Chief Paiz has worked her way through the ranks of the Albuquerque Police Department and her assignments have included White Collar Crime Unit, APD Spokesperson, Crimes Against Children Unit, Juvenile Section, Prisoner Transport Section, Valley Watch Commander, Northeast Area Commander and Deputy Chief of Investigations and Field Services. Chief Paiz earned a bachelor's degree from New Mexico State University in 1991. Currently, she is the Vice President of Mustang Construction, Inc. She is married with two children and lives in the South Valley of Albuquerque. She enjoys physical fitness, travel and supporting her children in their after school activities.



HON. JERRY H. RITTER, JR. was appointed to the Commission by the New Mexico Supreme Court in 2009. Judge Ritter has been a District Judge for the Twelfth Judicial District (Otero and Lincoln Counties) since 1997 and is serving a second term as chief judge for the district from 2010 to 2013. He is a graduate of New Mexico State University and the University of New Mexico School of Law. From 1987 to 1992, Judge Ritter practiced law in Alaska with a small firm and as general counsel to an Alaska Native Regional Corporation. Returning to New Mexico, he was in private practice until 1994 when he became an Assistant District Attorney for the Twelfth Judicial District. He serves on the New Mexico Sentencing Commission, the statewide Judiciary Budget Committee, other court committees, and presided over a juvenile drug court. He is active in his church as a youth leader and with the Boy Scouts of America. He is married with seven children.





ALFONSO (AL) SOLIS was appointed to the Commission by Governor Susana Martinez in August 2011. He is the Chief of Police for the Roswell Police Department. He was formerly the Administrator for both the Adult and the Juvenile Detention Centers in Roswell. Prior to coming to Roswell, he served as the Detention Center Administrator for the Dona Ana County Detention Center in Las Cruces. Mr. Solis retired from the United States Marshals Service in 1998 after a distinguished 21-year career. He held every operational position with the Marshals Service working his way up the ranks until he was promoted to the position of Assistant Director for Investigative Services in Washington, DC. In this position, he managed the division responsible for investigative matters, including domestic investigations, major case fugitive investigations, overseeing District Fugitive Task Forces through the United States and the International Investigations

Branch, whose job it is to work hand in hand with Interpol and other foreign law enforcement agencies to locate and arrested fugitives overseas. His division also included a unit called the Electronic Surveillance Branch, whose job it is to provide covert investigative and intelligence support for U.S. Marshal Service Major Cases and other operational matters. He was then assigned to be the Assistant Director of Prisoner Services which included the management of the nationwide pretrial detention program for federal prisoners. As the Assistant Director, he was the Chief Executive Officer of the Department of Justice air transportation system commonly known as "ConAir." Early in his career he served as an Inspector with the Witness Protection Division. In 1987 he was nominated by Senator Pete Domenici and was appointed by President Ronald Reagan as Marshal for the District of New Mexico. He served in this position from 1987 to 1992. Mr. Solis started his career in law enforcement in the military, first as a Military Policeman and then as a Special Agent with the Army's Criminal Investigation Command. Mr. Solis served in the Armed Forces from 1968 to 1976. He was awarded the National Defense Service Medal, the Vietnam Service Medal and the Army Commendation Medal. Prior to joining the United States Marshals Service, he served as a Deputy Sheriff for the El Paso County Sheriff's Department in El Paso, Texas. Mr. Solis is a native of New Mexico, graduating from Gadsden High School in Anthony, New Mexico. He attended New Mexico State and has an associate's degree from the El Paso Community College. He also completed a fellowship at the John F. Kennedy School of Government at Harvard University.



NORMAN S. THAYER, ESQ. was appointed to the Commission by the New Mexico State Bar Board of Bar Commissioners to a four-year term commencing July 1, 2010. He grew up in Raton, New Mexico, and graduated high school there in 1950. Mr. Thayer received a bachelor of arts degree with English major and history minor in 1954, and a *juris doctor* degree in 1960 from the University of New Mexico. He served three years as a naval officer from 1954–1957. Mr. Thayer served three years as an Assistant Attorney General from 1960-1964. He has practiced law in Albuquerque with the law firm of Sutin, Thayer & Browne since 1964, handling civil litigation of all kinds. His memberships and professional activities include: Governor's Task Force on Ethics Reform (2007), Supreme Court Code of Judicial Conduct Committee (1993–2009), The Disciplinary Board of the Supreme Court (1985-1990), the Supreme Court Committee on Rules of Professional

Conduct (1990-1998), and the State Bar Fair Judicial Elections Committee (2006–2008). Mr. Thayer was inducted into the State Bar's Roehl Circle of Honor for Trial Lawyers in 2009, received the State Bar Distinguished Service Award in 2006, and received the Community Service Award of the American Board of Trial Advocates in 2007. He was a member of the Board of Bar Commissioners of the State Bar (1985–1986). He has also been active with the Albuquerque Museum, including memberships on the Board of Trustees (1989–1997) and the Board of Directors of the Albuquerque Museum Foundation (1985–1989), as well as receiving the Museum's Award of Distinction (1996–1997).



DARLA WAX was appointed to the Commission by Governor Susana Martinez in March 2011. She served as Vice-Chair of the Commission from April–August 2011. Being a Las Cruces, New Mexico native, she is a 1982 graduate of Mayfield High School and earned a certificate in Computer Accounting from International Business College. She is currently employed as a legal secretary at the Law Office of Samuel I. Kane, P.A. Mrs. Wax

volunteers to organize public awareness events regarding Domestic Violence and Teen Dating Violence and has participated as a guest speaker for organizations and groups involved in prevention education for teens in abusive relationships.

MALINDA WILLIAMS was appointed to the Commission by Governor Susana Martinez in March 2011. Ms. Williams has been employed since 1994 with Community Against Violence, Inc. (CAV) a progressive, successful non-profit agency in Taos County serving adult and child survivors of sexual and domestic violence, and child abuse. For the last 14 years she has been the organization’s executive director. During her career Ms. Williams has served on numerous boards often in a leadership position. Among them are organizations such as the New Mexico Coalition Against Domestic Violence and the New Mexico Coalition to End Homelessness, and she continues to be active in local and state-wide committees, planning groups, and councils. She has been sought for her expertise in areas of domestic and sexual violence, child abuse, homelessness, and fundraising and non-profit entrepreneurial efforts. She has been a presenter at state and national forums and conferences. She spent several years co-developing a model for best practices of engaging advocates from domestic violence agencies and child protective service caseworkers in a cooperative mission to increase family safety by establishing a joint response to families experiencing both domestic violence and child abuse. Ms. Williams continues to work on issues pertaining to social justice, coalition building, and community organizing to find solutions for ending domestic and sexual violence and child abuse.



CHAIRS OF THE COMMISSION	EXECUTIVE DIRECTORS OF THE COMMISSION
<p>JOYCE BUSTOS, February 2012–Present LARRY TACKMAN, April 2011–February 2012 DAVID S. SMOAK, August 2004–March 2011 HON. DAN SOSA, JR. , October 2003–August 2004 DOUGLAS W. TURNER, July 2001–March 2003 BARBARA A. GANDY, August 1999–June 2001 DOUGLAS W. TURNER, April 1997–August 1999 ELEANOR SELIGMAN, February 1996–April 1997 DONALD PERKINS, August 1994–February 1996 FRED HARRIS, July 1992–August 1994 PEGGY C. TRAVER, September 1991–June 1992 HUBERT QUINTANA, July 1989–September 1991 HARRY THOMAS, June 1985 – July 1989 JUNE O. KELLER, December 1984–June 1985 ALBERT N. JOHNSON, August 1983 - December 1984 ELOY A. DURAN, September 1982–August 1983 SUSAN S. DIXON, July 1981 - September 1982 LUCY M. SALAZAR, August 1980–July 1981 LOIS CHAPMAN, July 1979–August 1980 LUCY M. SALAZAR, August 1977–July 1979 DORIS WAKELAND, July 1975 - August 1977 RICHARD VANN, June 1974–June 1975 LUCY M. SALAZAR, October 1972–June 1974 MORRIS E. H. BINGHAM, June 1970 - October 1972 BOYD WEST, November 1969–June 1970 LUTHER A. SIZEMORE, June 1968–November 1969</p>	<p>RANDALL D. ROYBAL, ESQ. August 2009–Present JAMES A. NOEL, ESQ. January 2004–June 2009 PEG A. HOLGIN, ESQ. July 1993–October 2003 SAMUEL W. JONES, ESQ. September 1984–June 1993 DAVID R. GARDNER, ESQ. October 1974–September 1984</p>



COMMISSION STAFF MEMBERS



EXECUTIVE DIRECTOR & GENERAL COUNSEL

RANDALL D. ROYBAL, ESQ. joined the Commission staff in February 1998, serves as Executive Director and General Counsel, and is the agency's Chief Financial Officer. He is the President of the Association of Judicial Disciplinary Counsel ("AJDC"), the association for judicial disciplinary agency directors, counsel, investigators, and staff. throughout the United States and Canada. He has served on the AJDC board of directors since 2007 and was Vice-President in 2009–2011. Mr. Roybal regularly speaks at local, regional, and national conferences and events concerning judicial ethics and discipline. Prior to joining the Commission, Mr. Roybal served as an assistant attorney general at the New Mexico Attorney General's Office, handling civil litigation, administrative licensing board prosecutions, judicial writs defense, and prison reform litigation. Before entering public service, he practiced law privately in Albuquerque for five years. Selected past activities include: New Mexico State Bar Committees on Women in the Profession and on Minorities in the Profession, New Mexico State Bar Young Lawyers Division AIDS Law Panel, New Mexico Domestic Violence Legal HELpline, and the boards of directors for New Mexico AIDS Services and Musical Theatre Southwest. Mr. Roybal earned a bachelor of arts degree in economics in 1988 from the University of New Mexico and a *juris doctor* degree in 1991 from the University of Notre Dame Law School.



SENIOR INVESTIGATIVE TRIAL COUNSEL

ROBIN S. HAMMER, ESQ. joined the Commission staff in 2010 and serves as Senior Investigative Trial Counsel. She has previously worked as Deputy and Assistant District Attorneys in the Farmington, Santa Fe and Albuquerque District Attorney's Offices, with more than 17 years of prosecutorial experience. Ms. Hammer has prosecuted all types of cases, including violent, gang, property and white collar crimes. At the Bernalillo County District Attorney's Office she was in charge of the Organized Crime and Public Corruption Division. There she worked with the United States Secret Service and members of the Financial Crimes Task Force to convict several groups of organized criminals. In 1995, the New Mexico Prosecutor's Section awarded her with the Legal Impact Prosecutor award for her work on a sophisticated DNA rape case and a death penalty murder case. She served on the New Mexico Supreme Court's Criminal Procedure Rules Committee and the Court's Joint Committee Regarding Sealing of Court Records. She is a member of the Association of Judicial Disciplinary Counsel. Ms. Hammer earned a bachelor of arts degree in theater at Indiana University in Bloomington, Indiana. She also graduated *cum laude* from Indiana University School of Law in Bloomington. Ms. Hammer worked at the Santa Fe Opera prior to her career in the law.



INVESTIGATIVE TRIAL COUNSEL

PHYLLIS A. DOMINGUEZ, ESQ. joined the Commission staff in January 2012 and serves as Investigative Trial Counsel. She earned a bachelor of science degree in education in 1993 from the University of New Mexico, and a *juris doctor* degree in 2003 from the University of New Mexico School Law. Prior to joining the Commission she served as a prosecutor specializing in adult sexual assault cases and later as assistant supervisor in the Domestic Violence Division in the Second Judicial District Attorney's Office. Ms. Dominguez also served as prosecutor in the Thirteenth Judi-

cial District. She briefly worked for the New Mexico Corrections Department and worked as a guardian ad litem with Advocacy, Inc. She served for five years on the Judicial Performance Evaluation Commission, was a member of the Sandoval County Bar Association, and currently serves on the Board of Directors for the Albuquerque Sexual Assault Nurse Examiner's (SANE) Collaborative.

PARALEGAL

EVONNE SANCHEZ joined the Commission staff in 2004 as a Paralegal. She earned her paralegal certificate from the University of New Mexico in 1996 and has been an active member of the Paralegal Division of the State Bar of New Mexico since 2000. She is currently the Chair of the Paralegal Division for 2012 and serves on the committee for statewide CLE programs. Ms. Sanchez also serves on the State Bar of New Mexico Board of Bar Commissioners, is a member of the Awards Committee for the State Bar annual meeting, and serves on the State Bar Commission on Professionalism. She is also a member of the Association of Judicial Disciplinary Counsel. Ms. Sanchez is a native New Mexican and has legal assistant and paralegal experience spanning over 23 years. Prior to joining the Commission staff, the majority of Ms. Sanchez' legal work was performed as a paralegal and office manager for an Albuquerque law firm specializing in criminal defense. Ms. Sanchez also has substantial experience in the areas of personal injury and civil litigation.



CLERK OF THE COMMISSION & LEGAL ASSISTANT

SHARIESSE T. MCCANNON joined the Commission staff in 2004 and serves as Clerk of the Commission & Legal Assistant. She also serves as Human Resources Manager. Ms. McCannon graduated from Eldorado High School in Albuquerque, attended the University of New Mexico, and earned her diploma in Computer Information Systems from Albuquerque Technical-Vocational Institute in 1981. Ms. McCannon earned her Accredited Legal Secretary (ALS) certificate in 1995 from the National Association of Legal Secretaries, for which she later taught legal assistant courses and organized court clerk workshops. She has experience as a legal assistant and paralegal, including extensive trial experience, dating back to 1990. Prior to joining the Commission, Ms. McCannon was employed as a paralegal for a prominent Albuquerque plaintiff's law firm, concentrating in mass tort litigation, personal injury, and nursing home litigation. Ms. McCannon is involved in her community, founding and serving as President/board member of her neighborhood association for many years.



FINANCIAL SPECIALIST

KRISTA M. GIANES joined the Commission staff in 2005 as Paralegal/Financial Specialist and serves as Financial Specialist. She earned an associate of applied science degree in paralegal studies from the Albuquerque Technical Vocational Institute in 2006. She is a member of the Board of Directors of the Paralegal Division of the State Bar of New Mexico, Chair of the Continuing Legal Education Program, and Co-Chair of the Professional Development Committee. In 2007 she was appointed to the Paralegal Advisory Committee for Central New Mexico Community College and continues to serve on several advisory committees to date. She has also been a member of the Association of Government Accountants since 2009. Prior to joining the Commission, Ms. Gianes served for three years as a court clerk to Hon. Marie Baca of the Second Judicial District Court, Children's Court Division.





INVESTIGATOR

ROSALIE D. ANAYA joined the Commission staff in April 2012 and serves as Investigator. Ms. Anaya is a native to Albuquerque and served as an officer for the Albuquerque Police Department where she specialized as a Field Investigator and a Detective for the Crimes against Children Unit. Ms. Anaya was a certified instructor and taught preschool parents at day care facilities about the Awareness of Child Abuse. Ms. Anaya was the first woman to be shot in the Line of Duty in 1995 and was awarded the Purple Heart for her bravery. After retiring from the Albuquerque Police Department, she worked as a Private Investigator for approximately three years with Robert Caswell Investigations specializing in civil rights, tort claims filed against police agencies, child abuse, and wrongful death lawsuits. Ms. Anaya also worked for the Bernalillo County Sheriff's Department as a Deputy Court Security Specialist at District Court and at Metropolitan Court. Subsequently, she was hired by the Second Judicial District Attorney's Office and served as a Violent Crimes Senior Investigator for approximately six years. Ms. Anaya has accomplished two and a half years of Community College education and maintains her Law Enforcement Certification. Outside of the work place, Ms. Anaya was involved in the art of Judo for approximately twenty years and traveled all around the world. In the 1980s, Ms. Anaya was a National, International, and World Champion in the sport of Women's Judo. Ms. Anaya made history in 1983, winning the first Gold Medal in her weight division for the USA in women's Judo at the Pan American Games held in Caracas, Venezuela.



ORGANIZATIONAL OVERVIEW

JURISDICTION & AUTHORITY

Article VI, §32 of the New Mexico Constitution and New Mexico Statutes Annotated §§34-10-1, *et seq.*, authorize the Judicial Standards Commission to investigate complaints involving allegations of willful misconduct in office; persistent failure or inability to perform a judge’s duties; habitual intemperance; and disability seriously interfering with the performance of the judge’s duties which is, or is likely to become, of a permanent character.



The Commission’s constitutional authority, statutory authority, and the Code of Judicial Conduct are viewable on the Commission’s website, www.nmjsc.org, under the Governing Provisions of Law tab.

The Commission’s jurisdiction extends over complaints made against currently serving Justices of the Supreme Court and all other judges within the state judicial branch, including the Court of Appeals, district courts, metropolitan court, magistrate courts, probate courts, and municipal courts. The Commission also has jurisdiction over judicial candidates as provided in the New Mexico Code of Judicial Conduct, NMSA §§21-001,

et seq. The Commission does not have jurisdiction over special masters, special commissioners, hearing officers, federal judges, Workers’ Compensation Administration judges, other administrative law judges, or attorneys. Where necessary, the Commission holds evidentiary hearings (trials) and, if allegations are proven, recommends appropriate sanctions to the New Mexico Supreme Court.

CONFIDENTIALITY

Article VI, §32 of the New Mexico Constitution mandates that “[a]ll papers filed with, and all matters before, the Commission are confidential. The filing of papers and giving of testimony before the commission or its masters is privileged in any action for defamation, except that the record filed by the commission in the supreme court continues privileged but, upon its filing, loses its confidential character, and a writing which was privileged prior to its filing with the commission or its masters does not lose its privilege by the filing.” Confidentiality requirements do not apply to third-party complainants.

The Supreme Court’s files and hearings are accessible to the public unless sealed or ordered by the Court pursuant to the rules and orders of the Court. See 27-104 NMRA 2011.

A complainant’s name may be disclosed to the judge who is the subject of the complaint. A complainant may be called to participate and/or testify in Commission proceedings.

Commission staff cannot respond to requests for information regarding a complaint or any other proceeding before the Commission. However, a complainant will receive written notice of the ultimate outcome of the complaint, subject to the limits of confidentiality.

ACTIONS THE COMMISSION CANNOT TAKE

The Commission is not an appellate court. The Commission cannot change any judge's ruling, intervene in litigation on behalf of a party, affect the outcome of a court case, or remove a judge from a case. The filing of a complaint with the Commission does not by itself require a judge to recuse or be disqualified from an underlying court case. The Commission and its staff do not provide legal advice.

FILING, REVIEW AND INVESTIGATION OF COMPLAINTS

Anyone may file a complaint against a judge using the Commission's complaint form. The Commission may also docket allegations on its own motion. The Judicial Standards Commission Rules require that complaints be verified (*i.e.*, substantiated by oath and notarized). The Commission may undertake an investigation on its own motion when it has credible knowledge of misconduct by or disability of a judge.

Inquiries about complaint procedures may be made in writing or by telephone. When a complaint is received, the Commission and/or its staff will review the complaint to determine if it falls within the Commission's jurisdiction. After determining that jurisdiction exists, the Commission may conduct an initial inquiry. The Commission may direct staff to conduct additional investigation, if necessary.

Judges are neither notified of frivolous or unsubstantiated complaints, nor informed of complaints that are extra-jurisdictional or appellate in nature. Such cases are typically dismissed after review by the Commission.

ACTIONS THE COMMISSION CAN TAKE ON COMPLAINTS

Initial Inquiry. If it is determined that the complaint, report or other information about the judge's conduct could constitute misconduct, the Executive Director and/or Commission staff may conduct a confidential inquiry. If it is determined after initial inquiry that there are insufficient grounds to proceed, the case will

be closed. The complainant will be informed of the disposition. A closure of the matter at this stage of the Commission's proceedings remains confidential.



A flow chart of the Commission process, the Commission's procedural rules, and the Supreme Court's procedural rules for review of Commission cases may all be found on the Commission's website.

Preliminary Investigation. If the complaint appears to allege facts not obviously frivolous or unfounded indicating a disability or a violation of the New Mexico Code of Judicial Conduct, the Commission may complete a preliminary investigation to determine whether formal proceedings should be initiated

and a hearing held. The Commission may also initiate a preliminary investigation on its own motion. The judge will be notified with a Notice of Preliminary Investigation that sets forth the nature of the complaint. The judge must respond in writing to the notice of preliminary investigation.

If it is determined after preliminary investigation that there are insufficient grounds to proceed, the case will be closed and the complainant and the judge will be informed of the disposition. A closure of the matter at this stage of the Commission's proceedings remains confidential.

Formal Proceedings. If at least six members of the Commission vote to begin formal proceedings, a Notice of Formal Proceedings will be issued and served upon the judge. The Notice of Formal Proceedings will contain the charges alleged, the facts upon which the charges are based, the laws, canons and rules allegedly violated, and the constitutional provisions under which the Commission invokes its jurisdiction in the proceedings. After service of a Notice of Formal Proceedings, the Commission's jurisdiction attaches and

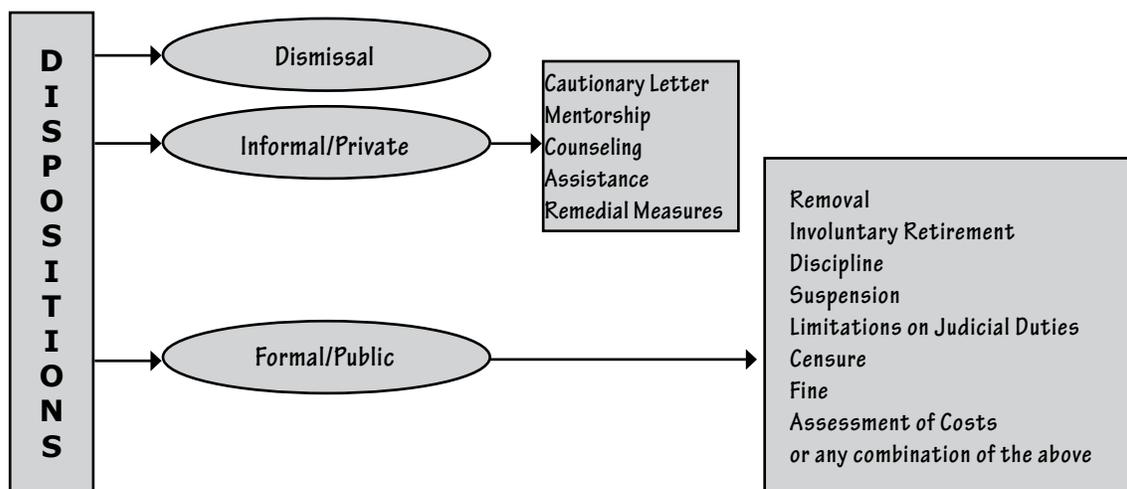
is not affected by subsequent resignation or termination from office. The judge's answer to the Notice of Formal Proceedings shall be in writing.

Upon filing and issuance of the Notice of Formal Proceedings, the Commission will set the matter for hearing on the merits. The Commission may hear the case itself or appoint three judges as special masters to hear the matter, take evidence, and report their findings to the Commission. The formal hearing is a closed hearing. The judge has a right to and is given a reasonable opportunity to defend with evidence, to be represented by counsel, and to examine and cross-examine witnesses. The standard of proof is clear and convincing evidence. At least six Commissioners must agree on a determination of misconduct and in recommending removal, retirement or discipline of a judge to the Supreme Court.

If the Commission determines at any time prior to the conclusion of the formal proceedings that there is insufficient evidence to support allegations against the judge, those allegations will be dismissed. In some cases, the Commission has found evidence of wrongdoing, but has determined that the judge's actions were the result of misunderstanding, rather than willful misconduct. In those situations, the judge may be referred for counseling to the Supreme Court or to a judge having supervisory authority.

Dispositions. The Commission may dispose of a case by dismissing it, privately informing the judge that conduct may violate the standards of judicial conduct, and/or proposing professional counseling, assistance or other remedial measures for the judge.

Sanctions. If the Commission votes to recommend to the Supreme Court that a judge should be sanctioned, the following sanctions are available: removal, retirement, discipline (suspension, limitations or conditions on judicial duties, censure, fine, and assessment of costs and expenses), or any combination of the above. The Supreme Court may set a hearing on the Commission's recommendations. The Court will render a decision adopting, rejecting, or modifying the recommendation of the Commission or requiring some other action.



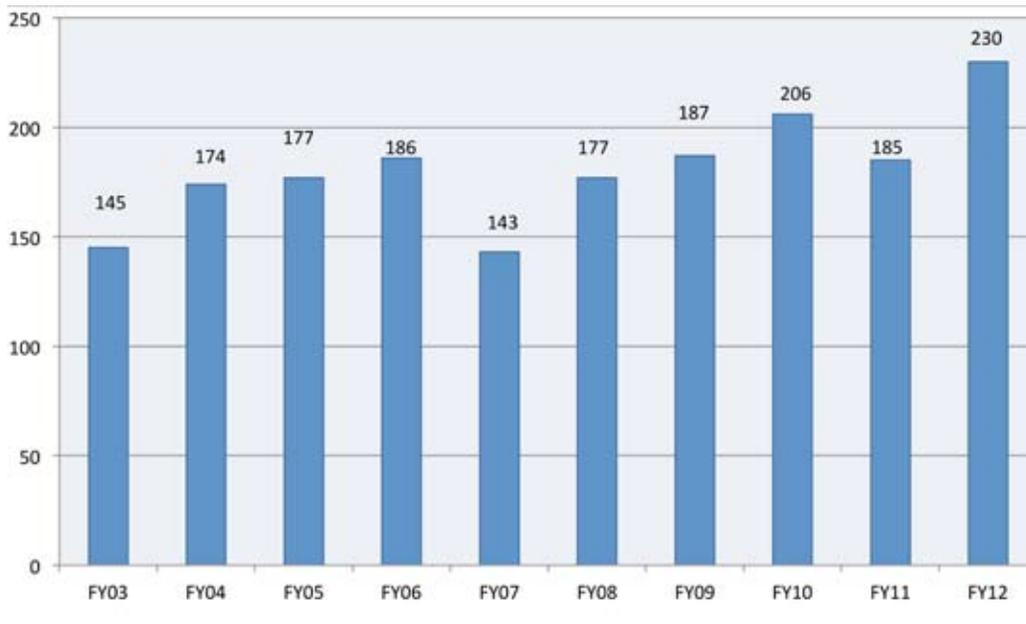


COMPLAINTS, DISPOSITIONS & PERFORMANCE JULY 1, 2011–JUNE 30, 2012

COMPLAINTS RECEIVED

In FY 2012 the Commission received 230 written complaints, which is the highest number ever received. The aggregate is comprised of 162 verified complaints (includes Commission-initiated and reopened inquiries) and 68 unverified complaints.

10-YEAR HISTORY OF COMPLAINTS

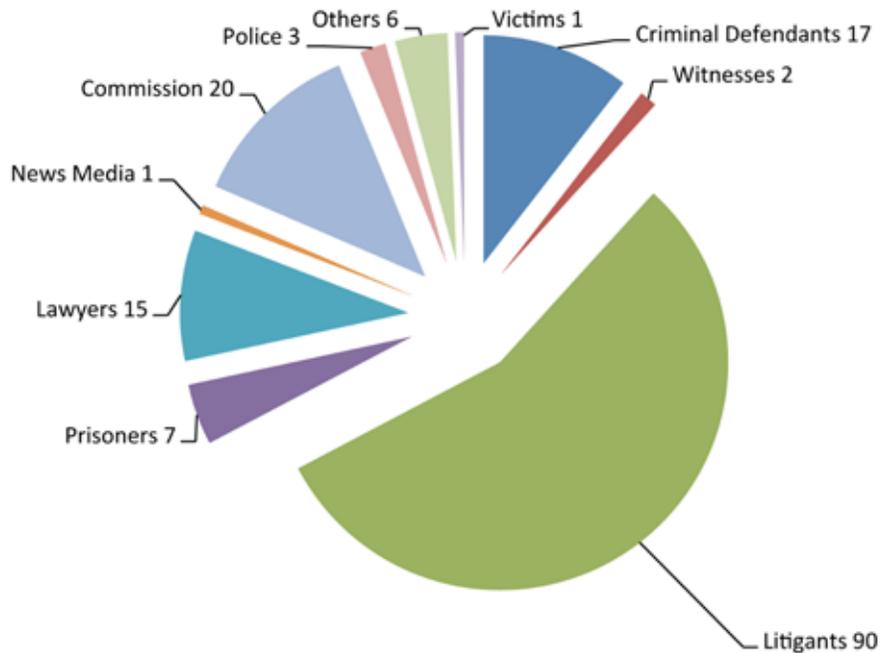


The Commission has an established pre-screening process for telephonic and in-person complaints. Staff members make every effort to discuss callers' situations in detail as appropriate. Staff informs callers about the limited scope of the Commission's jurisdiction under state law. Complaint forms are mailed to all callers who request one. Since 2001 complaint forms and detailed filing instructions have also been available to download from the Commission's web site.

SOURCES OF VERIFIED COMPLAINTS

Of the 162 verified complaints filed with the Commission, most were filed by litigants. The distribution of the sources of written, verified complaints was the following: 90 by litigants or their family/friends, 17 by criminal defendants or their family/friends, 15 by lawyers, 3 by police officers, 1 by news media, 7 by prisoners, 1 by victims, 2 by witnesses, and 6 by others. Additionally, 20 complaints were initiated by the Commission on its own motion. The chart on the following page illustrates these figures.

COMPLAINT SOURCES



JUDGES REVIEWED

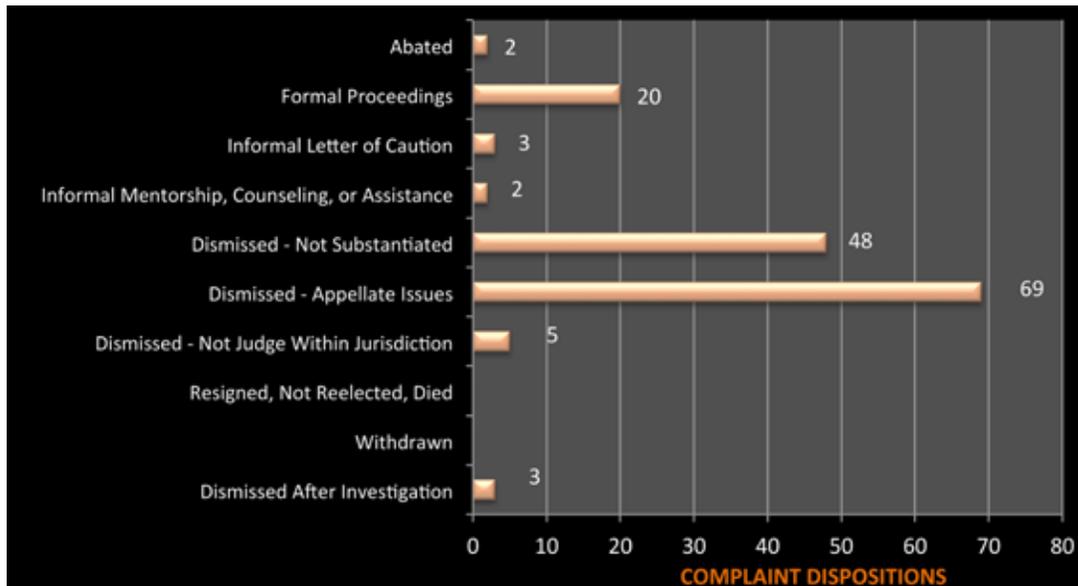
JUDICIAL BRANCH	VERIFIED COMPLAINTS	CASELOAD %
<i>Supreme Court</i>	8	4.9%
<i>Court of Appeals</i>	5	3.1%
<i>District Court</i>	91	56.2%
<i>Metropolitan Court</i>	9	5.6%
<i>Magistrate Court</i>	29	17.9%
<i>Municipal Court</i>	13	8.0%
<i>Probate Court</i>	4	2.4%
<i>Not a Judge</i>	3	1.9%

CASE DISPOSITIONS

Inquiries Pending at Beginning of FY12 (July 1, 2011)	27
New Written/Verified Complaints and Inquiries in FY12	162
Inquiries Concluded in FY12	152
Inquiries Pending at End of FY12 (June 30, 2012)	37

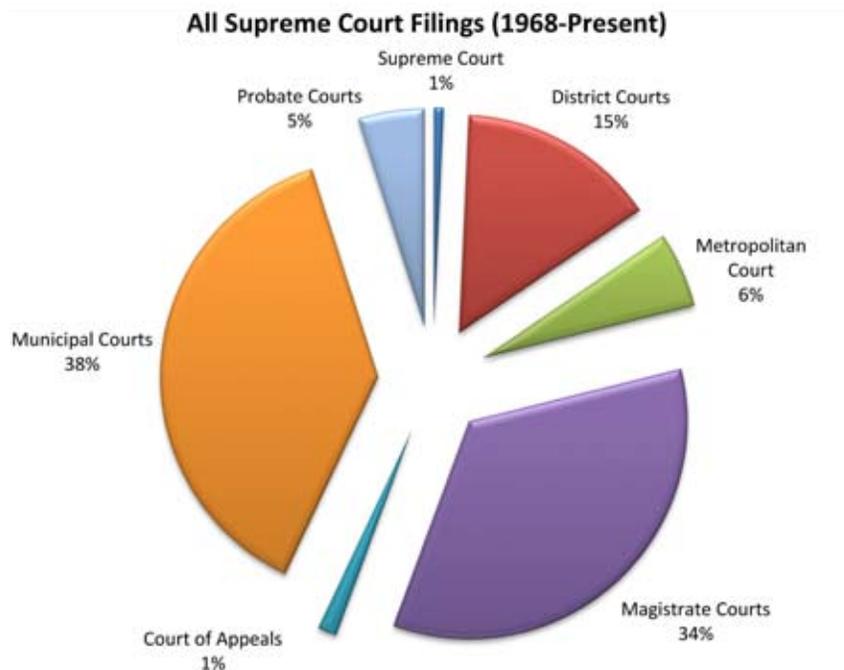
Of the 152 cases disposed in FY 2012, the Commission concluded 20 cases (involving 11 judges) through formal proceedings (after charges filed, stipulations, trials and/or Supreme Court proceedings) and issued 3 informal letters of caution. 69 cases were dismissed as appellate, 5 cases because they concerned individuals beyond our jurisdiction, 48 cases as unsubstantiated, and 3 after substantive investigation had been completed. In 2 case(s), the judges were referred for informal remedial measures, which may have included mentorship, education, counseling, and/or other assistance. The Commission abated 2 pending

cases after the judges were removed or permanently retired or resigned through formal proceedings. The graph below illustrates the FY 2012 case dispositions.



HISTORICAL SUMMARY OF CASES FILED IN SUPREME COURT

From 1968 through June 30, 2012, the Commission filed 142 petitions for discipline and/or temporary suspension in the New Mexico Supreme Court involving 101 judges. By their nature, these cases involve the most serious questions of judicial misconduct or disability, thereby requiring the Commission to recommend sanctions, discipline, and/or immediate temporary suspension to the State’s highest court. Of the judicial branches concerned, the Commission’s petitions to the Supreme Court involved the following levels of the State Judiciary: 1 Supreme Court, 2 Court of Appeals, 21 district court, 8 metropolitan court, 49 magistrate court, 54 municipal court, and 7 probate court.

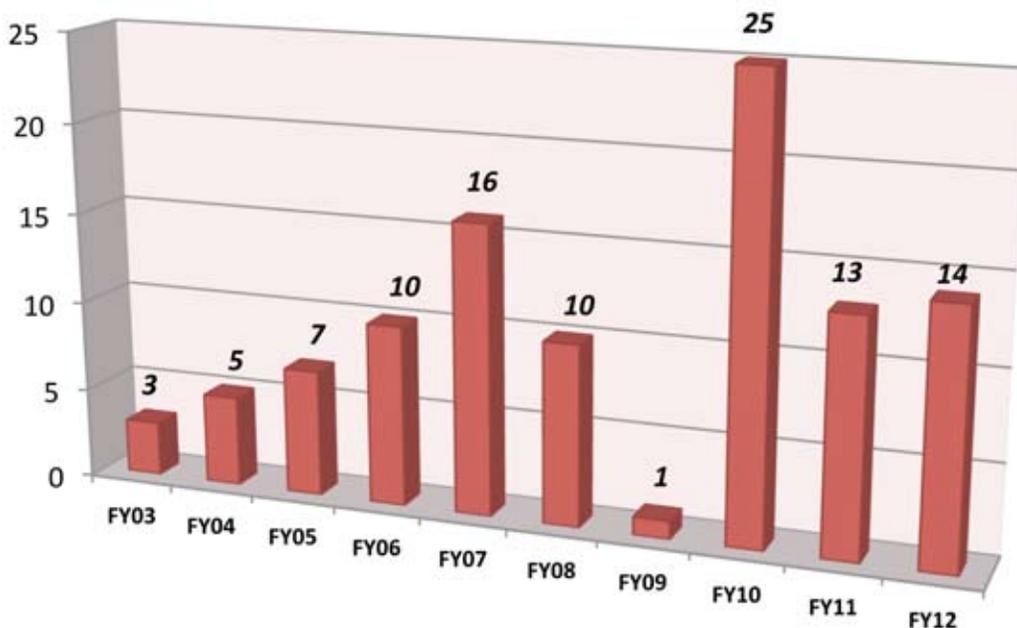


The table below indicates the levels of the judiciary and the corresponding geographical areas involved in the 142 formal cases the Commission has filed with the Supreme Court since 1968 through June 30, 2012.

APPELLATE COURTS (3)	DISTRICT COURTS (21)	METROPOLITAN COURTS (8)	MAGISTRATE COURTS (49)	MUNICIPAL COURTS (54)	PROBATE COURTS (7)
Supreme Court 1 Court of Appeals 2	First 1 Second 4 Third 4 Fourth 1 Fifth 1 Seventh 1 Eighth 4 Ninth 1 Eleventh 4 Thirteenth 1	Bernalillo County 8	Cibola 1 Colfax 1 Doña Ana 11 Eddy 1 Guadalupe 1 Hidalgo 1 Lea 1 McKinley 4 Mora 1 Rio Arriba 6 Sandoval 1 San Juan 4 San Miguel 2 Santa Fe 2 Socorro 1 Taos 5 Union 1 Valencia 4	Aztec 1 Bernalillo 1 Bloomfield 1 Bosque Farms 1 Cimarron 1 Clovis 2 Columbus 2 Dexter 2 Española 2 Gallup 2 Grants 3 Hatch 1 Hurley 1 Las Cruces 12 Las Vegas 2 Mountainair 3 Portales 1 Red River 1 Roswell 5 Ruidoso Downs 1 San Jon 1 Santa Fe 6 Sunland Park 1 Taos 1	Cibola County 1 Sandoval County 1 Taos County 5

PUBLIC CASES DISPOSED BY TERMINATION OF JUDICIAL OFFICE

In FY 2012, 14 cases concerning 6 judges were disposed after termination of judicial office in public proceedings before the Supreme Court. Since its inception, the Commission has disposed of 152 cases concerning 68 judges after termination of judicial office. These cases include involuntary or stipulated permanent removal, retirement, or resignation from office after the Commission had issued formal charges and then filed and requested action by the Supreme Court. Following is a ten-year history of cases disposed:



FY 2012 LEGISLATIVE PERFORMANCE MEASURES

Following are the mandatory performance measures that the State Legislature has established for the Commission:

Upon knowledge of cause for emergency interim suspension, time for Commission to file petition for temporary suspension with Supreme Court (in days).

Efficiency measure. Target: 2 days. Result: 1 day. Target satisfied.

Note: The Commission's "knowledge" occurs when Commissioners are informed of allegations requiring a temporary suspension petition.

Time for release of annual report to public from end of the fiscal year (in months).

Output measure. Target: 2 months. Result: 2 months. Target satisfied.

For cases in which formal charges are filed, average time for formal hearings to be reached (in meeting cycles).

Efficiency measure. Target: 3 meeting cycles. Result: 2.5 meeting cycles. Target satisfied.

HISTORICAL SUMMARY OF INFORMAL CASE DISPOSITIONS

Short of proceeding formally on a case not warranting dismissal, the Commission may dispose of a matter informally. Informal dispositions are not filed with the Supreme Court and remain confidential pursuant to Article VI, §32 of the New Mexico Constitution. Allegations disposed of informally were found to merit notice to the judge, but due to their nature, the judge's experience and disciplinary history, or a number of other factors, the Commission determined that an informal disposition was appropriate to address the issues in question. With informal dispositions, there are no findings of misconduct.

Informal dispositions include issuing private letters of caution, referring the judge for mentorship, or entering into a stipulation agreement concerning the conduct in question. Since its formation in 1968 through June 30, 2012, the Commission has informally disposed of 317 case files. The following tables illustrate the distribution of the informal cautionary letter and mentorship dispositions. A brief discussion concerning confidential stipulation agreements follows thereafter.

CAUTIONARY LETTERS (236 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL CAUTIONS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	65	27%
Metropolitan Court	25	11%
Magistrate Court	86	36%
Municipal Court	58	25%
Probate Court	2	1%

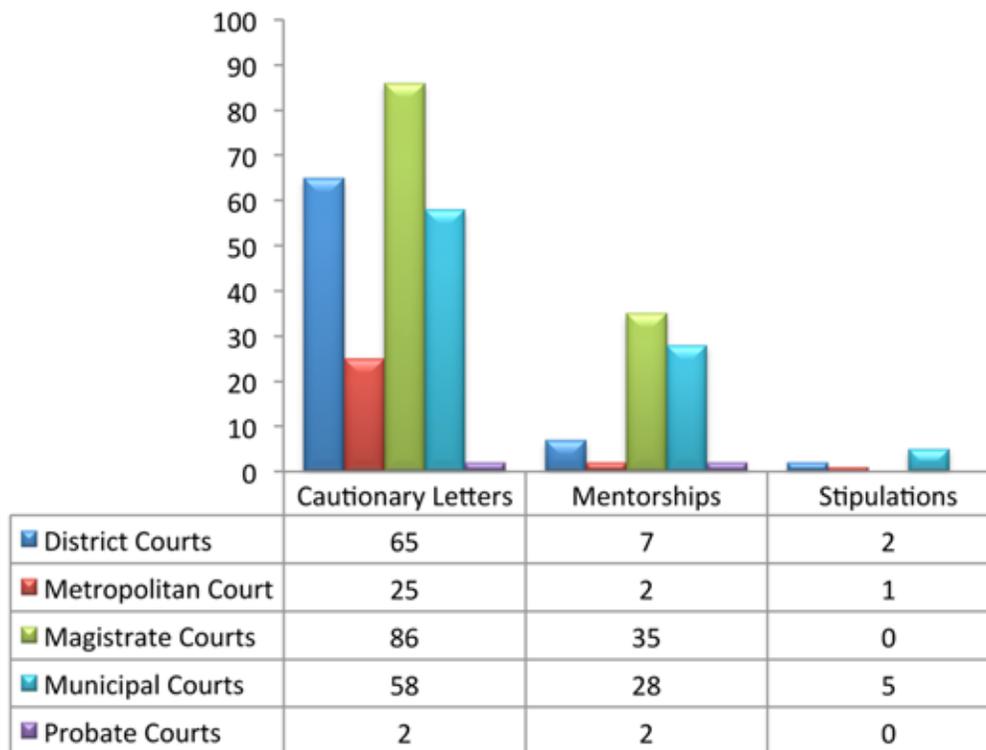
MENTORSHIPS (74 CASES)

JUDICIAL BRANCH INVOLVED	NUMBER OF CASE FILES	PERCENT OF ALL MENTORSHIPS
Supreme Court	0	0%
Court of Appeals	0	0%
District Court	7	9%
Metropolitan Court	2	3%
Magistrate Court	35	47%
Municipal Court	28	38%
Probate Court	2	3%

CONFIDENTIAL STIPULATIONS

In addition to private letters of caution and referrals to the mentor program, the Commission may informally dispose of cases through confidential stipulations with judges. Stipulations typically require judges to retire, resign, or cease improper conduct. In FY 2012, 1 case was disposed through confidential stipulation. Historically, the Commission has disposed of 8 cases through informal stipulation.

HISTORICAL SUMMARY OF INFORMAL CASE DISPOSITIONS





PROCEEDINGS BEFORE THE COMMISSION JULY 1, 2011–JUNE 30, 2012

All of the Commission’s proceedings that resulted in either formal or informal proceedings are summarized in this section.

Formal cases are matters the Commission found to involve the most serious ethical issues under the New Mexico Code of Judicial Conduct, thereby warranting formal review and proceedings before the Commission and/or the New Mexico Supreme Court. Informal cases, although less serious in nature and scope, involve significant issues that the Commission addresses through private letters of caution to the judges or by referring the judges to the Commission’s informal mentor program.



See the referenced rules and provisions on the Judicial Standards Commission website, www.nmjsc.org, under the Governing Provisions of Law tab.

Since August 29, 2006, petitions and responses in temporary suspension matters filed with the Supreme Court have been required to be filed under seal. In September 2009, the Supreme Court amended its rules to require automatic sealing of all Commission matters filed before the Commission completes a trial and evidentiary record. All Supreme Court

hearings, docket sheets, and orders were available to the public, unless otherwise ordered by the Court.

In May 2011, the Supreme Court amended its rule governing this matter. The Court requires that “[t]he contents, the fact of filing, and any other information about any request for temporary suspension, stipulated discipline, or interim relief shall remain confidential until the Court determines that confidentiality is no longer required and enters an unsealing order on its own initiative or grants a motion to unseal pursuant to Paragraph I of Rule 12-314 NMRA.” The Court further changed its docket sheets in sealed matters so they only include the case number and reference to sealed pleadings without specific title information. The Court also has codified that “Any person or entity who knowingly discloses any material obtained from a court record sealed pursuant to this rule may be held in contempt or subject to other sanctions as the Court deems appropriate.”

In January 2012, the Supreme Court adopted significant amendments to the Code of Judicial Conduct that apply to all judges within our jurisdiction. The impact of these changes on our caseload have not yet been determined.

FORMAL PROCEEDINGS

In FY 2012, the Commission concluded 20 cases by formal proceedings before the Commission and/or the New Mexico Supreme Court. Below are summaries of all formal proceedings with events occurring in and/or which were completed in FY 2012:

MATTER OF HON. JAVIER LOZANO

Columbus Municipal Court Judge

JSC Inquiry No. 2009-025

Supreme Court Docket No. 29,264 (2010)

On October 14, 2009, the Commission issued a Notice of Preliminary Investigation. Judge Lozano responded to Notice of Preliminary Investigation on October 29, 2009 and supplemented his response on November 12, 2009.

The Commission issued a Notice of Formal Proceedings in this Inquiry on February 12, 2010. Judge Lozano responded to the Notice of Formal Proceedings on March 3, 2010. The Notice of Formal Proceedings contained several allegations. It was alleged that Judge Lozano submitted a false public voucher, engaged in improper courtroom demeanor and conduct, and adjudicated a case in which the court no longer had jurisdiction.

The Commission set the matter for a trial on these matters to be conducted on April 13, 2010. On April 13, 2010 the Commission heard from Judge Lozano and accepted a Stipulation Agreement and Consent to Discipline to resolve the matter before the Commission. In the Stipulation Agreement and Consent, Judge Lozano admitted:

A. On December 17, 2008, Judge Lozano certified and submitted a false public voucher to the Village of Columbus claiming reimbursement for per diem expenses in the amount of \$260.00 for code enforcement training in Aztec, New Mexico, from December 22 through December 25, 2008. There was no code enforcement training in Aztec, New Mexico, during the week of December 22-25, 2008.

B. Judge Lozano admitted that this conduct violated Canons 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(C)(1) NMRA 2004; and 21-500(A)(1), (2), and (A)(4) NMRA 1995 of the Code of Judicial Conduct.

C. On February 18, 2009, Judge Lozano conducted a hearing in Village of Columbus v. Moreno, Case No. 200900156, a case regarding a building permit. Judge Lozano, Officer Rosemary Zamora, a code enforcement officer for the Village of Columbus, and Maria Moreno, the defendant, were present.

During the February 18, 2009 hearing, Judge Lozano kept moving his chair closer to the parties. Judge Lozano moved his hands a lot during the hearing. Judge Lozano touched the defendant, possibly others, during the hearing. After Judge Lozano had moved closer to the parties, both Officer Zamora and the defendant moved away from Judge Lozano. Both Officer Zamora and the defendant felt uncomfortable by the Judge Lozano's actions during the February 18, 2009, hearing.

Judge Lozano met with the Mayor of Columbus to discuss a similar claim of improper touching brought by Officer Zamora regarding Judge Lozano in the middle of January of 2009 prior to the February 18, 2009 hearing. Ms. Zamora had filed a claim with the U.S. Equal Employment Opportunity Commission ("EEOC"). The Village of Columbus reached a monetary settlement with Ms. Zamora. As part of the agreement, the EEOC required counsel for the Village of Columbus to send a letter to the Mayor of

the Village of Columbus urging the Village to be aware of its March 2009 sexual harassment policy and to enforce it to avoid future potential claims.

D. Judge Lozano admitted that this conduct violated Canons 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; and 21-300(B)(2), (B)(3) and (B)(4) NMRA 2004 of the Code of Judicial Conduct.

E. In *Village of Columbus v. Moreno*, Case No. 200900156, Judge Lozano failed to conduct a trial within the one-hundred eighty two (182) day time period specified in NMRA 8-506 of the Rules of Procedure for the Municipal Courts. The court cannot extend the expired time period for commencing a trial.

F. Judge Lozano admitted this conduct violates Canons 21-100 NMRA 1995; 21-200(A) NMRA 1995; 21-300(C)(1) and (C)(2) NMRA 2004 of the New Mexico Code of Judicial Conduct.

Judge Lozano further agreed that his admitted conduct constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose discipline against Judge Lozano pursuant to article VI, § 32 of the New Mexico Constitution.

The Commission recommended that the Supreme Court impose the following formal discipline:

1. 90-Day Suspension without Pay;
2. Formal Reprimand;
3. Twelve-Month Supervised Probation and Formal Mentorship in Judicial Demeanor, Court Administration, Jurisdiction, and Responsibilities under the Code of Judicial Conduct;
4. Reimbursement of Per Diem Expenses;
5. Training in Public Financial Practices and Procedures; and
6. Training Concerning Sexual Harassment.

On April 14, 2010, the Commission filed a Petition for Discipline Upon Stipulation with the New Mexico Supreme Court. On May 11, 2010, the Supreme Court heard from the parties regarding the stipulated discipline in this matter. The Supreme Court accepted Judge Lozano's admissions regarding willful misconduct of submitting a false public voucher and displaying improper court demeanor and conduct. The Court rejected the allegation of adjudicating a case beyond the court's jurisdiction. With this modification, the Court imposed the discipline recommended by the Commission and stipulated to by Judge Lozano.

Judge Lozano served his 90-day unpaid suspension from May 12, 2010 until August 10, 2010. On May 26, 2010, Judge Lozano repaid \$260.00 which he had improperly obtained to the Village of Columbus.

On June 21, 2010, the Supreme Court issued a *Formal Reprimand* in the Bar Bulletin, Vol. 49, No. 25, pp. 20-22. Judge Lozano successfully completed his supervised probation and formal mentorship on August 10, 2011.

MATTER OF HON. JOHN W. POPE
Thirteenth Judicial District Court
JSC Inquiry No. 2006-046
Supreme Court Docket No. 29,778

On February 24, 2012 the Commission filed in the Supreme Court a Petition for the Temporary Suspension of Judge Pope based on the following information:

Pursuant to the Supreme Court order of July 20, 2006, Judge Pope for the duration of his service as a judge in the State of New Mexico, shall: (1) be on permanent supervised probation; (2) participate in Alcoholic Anonymous or other twelve-step program at least once a week; (3) submit to random alcohol and drug testing; and (4) not use alcohol or illegal drugs.

On February 16, 2012 at 7:18 a.m., pursuant to paragraph H (iii) of the Petition for Discipline upon Stipulation, Judge Pope was randomly tested for alcohol consumption at the request of his probation supervisor, Catherine Hartman. A specimen was collected and sent to the Norchem Drug Testing Laboratory in Flagstaff, Arizona for screening. Ms. Hartman received the test results on February 21, 2012 and notified the Commission on the same day that the screening results were positive for alcohol.

A confirmatory test was completed on February 22, 2012 by Norchem Drug Testing Laboratory which conclusively showed that the specimen from Judge Pope taken on February 16, 2012 was positive for alcohol.

On March 7, 2012, the Commission and Judge Pope entered into a Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings. The petition provided in part:

Respondent agrees to permanently resign as Judge of the Thirteenth Judicial District Court, Division I, Los Lunas, New Mexico effective 5 p.m. on March 16, 2012. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court, the Administrative Office of the Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the Commission.

Upon resignation, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve pro tempore for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

Upon execution of this Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings and acceptance by the Supreme Court, the Commission will abate and close this matter pending against the Respondent before the Commission (Inquiry No. 2006-046).

On March 9, 2012, the Supreme Court granted the Commission's Petition to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings. Judge Pope permanently resigned as agreed on March 16, 2012.

MATTER OF HON. ROBERT M. SCHWARTZ
Second Judicial District Court, Bernalillo County
JSC Inquiry No. 2009-081
Supreme Court Docket No. 32,422
2011-NMSC-019, 149 N.M. 721, 255 P.3d 299

On January 5, 2010, the Commission issued a Notice of Formal Proceedings in this inquiry. Judge Schwartz responded to the Notice of Formal Proceedings on January 20, 2010. Prior to the opening of evidence at the initial trial setting of April 13, 2010, the Commission ordered the Notice of Formal Proceedings to be amended and vacated the trial setting. On April 15, the Commission issued a First Amended Notice of Formal Proceedings. Judge Schwartz responded to the First Amended Notice of Formal Proceedings on April 29, 2010.

On May 12 and 13, 2010, the Commission held trial on the merits in this inquiry. After receiving a transcript the hearing, the parties submitted proposed findings of facts and conclusions of law on May 28, 2010.

On June 1, 2010, prior to the Commission certifying and filing the record of the trial with the New Mexico Supreme Court, Judge Schwartz filed in the Supreme Court a Motion to Seal and Strike the Commission's anticipated record proper and filings in this matter. The Commission responded to the motion, arguing in part that the motion was premature and contrary to the New Mexico Constitution.

On June 24, 2010, the Supreme Court issued an order citing that the potential issues present in Judge Schwartz's Motion to Seal and Strike were neither focused nor ripe for resolution and remanded Judge Schwartz's objections to the Commission to be addressed. The Court ordered that the Commission make any proposed filings, such as the record in this matter, available to Judge Schwartz seven days prior to the Commission's filing it with the Supreme Court.

On August 3, 2010, the Commission issued and provided Judge Schwartz a copy of the Commission's proposed Finding of Facts and Conclusions of Law. On August 6, 2010, Judge Schwartz's counsel reviewed the record proper of the May 12 and 13 evidentiary hearing, including the exhibits, which the Commission intended to file with the Supreme Court.

On August 10, 2010, Judge Schwartz filed a First Amended Motion to Seal and Strike the Record with the Supreme Court. Judge Schwartz again asked for the anticipated record proper be sealed, stricken, or in the alternative redacted. On August 13, 2010, the Supreme Court ordered the Commission to respond to Judge Schwartz's First Amended Motion to Seal and Strike the Record by August 20, 2010.

On August 16, 2010, the Commission filed with the Supreme Court a Petition for Discipline and the record proper. The documents were filed under seal pursuant to the Court's prior order. In its Findings of Facts and Conclusions of Law and Recommendation for Discipline, the Commission recommended to the Court that the following discipline be imposed upon Judge Schwartz:

A. 60-day Unpaid Suspension. Respondent shall be suspended from judicial office for 60 days without pay. The period of suspension shall commence on the first day of the full pay period immediately following the Supreme Court's disciplinary order in this matter.

B. Formal Public Reprimand. Respondent shall receive a formal public reprimand, which shall be published in the Bar Bulletin.

C. Course Regarding Sexual Harassment. Respondent shall promptly and successfully complete a course regarding sexual harassment in the judicial system offered by the National Judicial College or the New Mexico Judicial Education Center. Respondent shall bear at his own expense all costs required to

attend and complete this training, including tuition, travel, accommodations, meals, and all other expenses incurred in relation to completing this requirement. Respondent shall promptly provide the Commission with proof of successful completion of this requirement.

D. Leave During Future Medication Transitions. During all future medication transitions, Respondent shall take appropriate leave from work as necessary to avoid the need to take any judicial action during that period.

E. Assessment of Commission's Costs and Expenses. Respondent shall pay the Commission's costs and expenses incurred in this matter as defined in Matter of Rodella, 2008-NMSC-050 (as codified in new JSC Rule 36 NMRA 2010) and as permitted by Supreme Court Rule 27-403 NMRA. The Commission will request by separate pleading and certified memorandum of costs that the Supreme Court assess the Commission's costs and expenses against the Respondent.

The grounds for imposing discipline against the Respondent are set forth completely in the Judicial Standards Commission's Findings of Fact, Conclusions of Law and Recommendation for Discipline. Following is a brief and plain statement of the adjudicated basis for the requested discipline as stated in the Commission's petition:

In July 2009, Respondent initiated and engaged in a romantic relationship with attorney Mary Griego while she had cases pending before him, including but not limited to the cases of State v. Jarvis Yellowman, D-202-CR 2003-03356 and State v. Damian Valencia, D-202-CR 2008-05233. Mary Griego was functioning as an assistant public defender assigned to his docket. Respondent invited Ms. Griego to lunch as a device and with the intent to create a romantic relationship. Respondent planned, prepared, and gave Ms. Griego gifts of a sexual nature at the lunch. Respondent pasted his official court photograph in his judicial robe to one of the gifts. Respondent and Ms. Griego dated and socialized over the weekend immediately preceding two jury trials scheduled before Respondent involving Ms. Griego. Despite having numerous opportunities, Respondent failed to timely recuse from Ms. Griego's cases, took judicial actions in two cases where recusal was required and, when he recused, stated reasons for recusal which were not valid and which were not truthful. By creating the relationship prior to recusal that led to his need to disqualify himself, by failing to recuse promptly once that relationship was created, and by stating reasons for recusal that were illegitimate, misleading and incredible, Respondent violated the provisions of the Code of Judicial Conduct stated below.

The Commission concluded that Respondent violated the following Canons of the Code of Judicial Conduct: 21-100 NMRA; 21-200(A) NMRA; 21-400(A)(1) NMRA; and 21-500(A)(1) through (4) NMRA. The Commission concluded that clear and convincing evidence proved that Respondent committed willful misconduct in office and established grounds for discipline as set forth in Article VI, §32 of the New Mexico Constitution.

On August 24, 2010, the Supreme Court issued an Order denying Judge Schwartz's Motion to Seal and Strike the Record, therefore making the Commission record filed in the Supreme Court in this matter open to the public. On the same day, the Court issued another order establishing a schedule for the parties to file briefs with the court and setting a date to hear the Commission's Petition for Discipline for October 12, 2010.

On October 12, 2010, the parties appeared before the Supreme Court for oral argument. The Supreme Court granted the Commission's Petition for Discipline. The Court found that Judge Schwartz committed willful misconduct in office and issued discipline as follows:

- 1) \$6,000 fine;
- 2) Public Reprimand;
- 3) Requirement to complete a course concerning sexual harassment prevention; and
- 4) Requirement to take appropriate leave during future medication transitions.

The Court took under advisement the Commission's request that the Court order Judge Schwartz to pay the Commission's costs of his trial on the merits. The Court indicated it would publish the formal reprimand in the Bar Bulletin and a formal reported opinion in the matter.

On November 1, 2010, the Supreme Court issued an order approving the sexual harassment prevention course Judge Schwartz was to complete. On December 15, 2010, the Commission filed a Notice of Completion of Course, notifying the Court that Judge Schwartz had completed the *New Mexico Judicial Branch Harassment, including Sexual, Discrimination and Retaliation* course through the Administrative Office of the Courts.

On May 31, 2011, the Court issued a formal opinion in this matter, *In the Matter of Robert Merle Schwartz*, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299. In its opinion, the Court explained its finding of willful misconduct committed by Judge Schwartz. The Court stated that after briefing and at the conclusion of oral argument on October 12, 2010, they had announced their decision from the bench to adopt the Commission's recommendations that Judge Schwartz receive a formal public reprimand for committing willful judicial misconduct in violation of the Code of Judicial Conduct, complete a course regarding sexual harassment, and take appropriate leave from work during all future medication transitions. The Court pointed out that they rejected the Commission's recommendation that Judge Schwartz be suspended for sixty days without pay and had announced that Judge Schwartz would instead be required to pay a fine of \$6,000. The Court issued their Opinion to further explain their decision and to provide guidance for future cases.

The Court pointed out that the willful judicial misconduct at issue arose by Judge Schwartz's untimely recusal after initiating a romantic relationship with an assistant public defender who had cases pending before him. The Court found that Judge Schwartz had made dishonest statements from the bench concerning his reasons for recusing.

This assistant public defender was not employed or supervised by Judge Schwartz, but as a judge, he was in a position of authority over her in his courtroom and decided if she won or lost cases. The Court noted that Judge Schwartz had engaged in a lunch with the assistant public defender that was not a professional lunch. At some point during the lunch Judge Schwartz gave the assistant public defender a gift of a pair of purple latex gloves and a book written by an author with the same name as Judge Schwartz, entitled, "The One Hour Orgasm." The gift was intended by Judge Schwartz and understood by the assistant public defender to be a self-deprecating joke because the author and Judge Schwartz shared the same name. The Court further outlined the facts of numerous encounters between the assistant public defender over a weekend and following Monday, prior to presiding over two of the assistant public defender's cases on Tuesday, of the same week.

Judge Schwartz disputed the Commission's findings of fact and conclusions of law. The Court held:

Our review of the record in this matter, however, shows that the findings relevant to our decision are supported by clear and convincing evidence. We agree with the Commission that the evidence supports the Commission's conclusions that Judge Schwartz violated Rule 21-100 (upholding the integrity and independence of the judiciary), Rule 21-200(A) (requiring that a

Judge shall “act in a manner that promotes public confidence in the integrity and impartiality of the judiciary”), Rule 21–400(A)(1) (requiring disqualification when a judge’s impartiality might reasonably be questioned), and Rule 21–500(A)(1)–(4) (requiring a judge to conduct extra-judicial activities to minimize conflict with judicial obligations), and that he committed willful misconduct in office. Specifically, we agree that the evidence supports a conclusion that Judge Schwartz violated Rule 21–400(A)(1), which states that a judge should recuse from a case if his impartiality might be reasonably questioned.

2011-NMSC-019 at ¶¶14-15.

The Court went on to hold that, “We are not suggesting that a judge is prohibited from becoming romantically involved with an attorney, but before initiating such a relationship the judge must terminate any professional relationship by recusing from any cases in which an attorney is or has been involved.” 2011-NMSC-019 at ¶ 17. The Court found that “not only did Judge Schwartz fail to recuse in a timely manner, he also made rulings in some cases after announcing his intention to recuse.”*Id.* at ¶ 19. Under the law, a judge has no authority to take action in a case after announcing his recusal.

The Court agreed with the Commission in its finding that Judge Schwartz had made statements from the bench which were not credible reasons for his recusals. The Court agreed with the Commission that Judge Schwartz violated Rule 21-100 and Rule 21-200, which contain “the overarching and interrelated principles that inform our Code of Judicial Conduct and ensure the rule of law.” *Id.* at ¶ 23. Rule 21–200(A) requires judges to avoid impropriety and the appearance of impropriety, to “promote public confidence in the integrity and impartiality of the judiciary.” The Court held further:

Even though the gift of the book was given and received as a joke, because of its sexual nature it was an inappropriate gift for a judge to give to an attorney who practiced before him. We recognize that no allegations of sexual harassment were made in this case and that Judge Schwartz was not the assistant public defender’s supervisor. However, Judge Schwartz was in a position of considerable authority, having power to rule in cases the assistant public defender argued before him. By giving a gift that was inappropriate for a judge to give an attorney practicing before him, by then failing to recuse in a timely manner, making rulings after having recused, and stating dishonest reasons for recusal, Judge Schwartz damaged the public’s confidence in the integrity and impartiality of the judiciary.

Id. at ¶ 23. The Court held that Judge Schwartz’s conduct reflected “poorly upon the integrity of the judiciary.” *Id.* at ¶ 26.

The Court imposed the disciplined outlined above and also indicated that it would address the matter of costs in a separate order.

On June 29, 2011, Judge Schwartz filed a Motion to Alter or Amend Judgment to Permit Charitable Contribution in Lieu of Fine. He asked the Court to permit him to pay the \$6,000 fine money to a legal-related nonprofit organization, rather than the State of New Mexico’s general fund. On July 12, 2011, the Commission responded in opposition, stating that it would be inappropriate for Respondent to choose which agency should receive a Court-imposed fine.

On July 13, 2011, the Court issued an Order which modified its previous Order and required Judge Schwartz to pay \$6,000 to the Jury and Witness Fee Fund administered by the Administrative Office of the Courts. It further ordered Judge Schwartz to pay the full requested costs of \$5,013.40 to the Commission no later than July 31, 2011. Judge Schwartz complied with the order and timely paid his fine and costs. On July 26, 2011, the Commission filed with the Supreme Court a Notice of Receipt of Costs, indicating that Judge Schwartz had paid the costs as ordered.

MATTER OF HON. JOHN SANCHEZ
Mora County Magistrate Court
JSC Inquiry Nos. 2009-070, 2009-098, 2010-024 & 2010-076
Supreme Court Docket No. 32,903

The Commission initiated matters pursuant to the Notice of Formal Proceedings and Answers filed in each inquiry number. In Inquiry Number 2009-070, the Notice of Formal Proceedings was filed on August 25, 2010 and Judge Sanchez (Respondent) filed his Answer on September 13, 2010. In consolidated Inquiry Numbers 2009-098 & 2010-024, the Notice of Formal Proceedings was filed on August 25, 2010 and the Respondent's Answer was filed on September 13, 2010. In Inquiry Number 2010-076, the Notice of Formal Proceedings was filed on September 3, 2010 and the Respondent's Answer was filed on September 22, 2010.

On March 14, 2011, the Commission and Judge Sanchez entered into an Amended Stipulation Agreement and Consent to Discipline. Judge Sanchez admitted the following:

1. Judge Sanchez failed to recuse himself prior to making rulings in a criminal case with his nephew, Daryl Sanchez, in *State v. Daryl Sanchez*, MR-37-2009-0110. Judge Sanchez arraigned his nephew in the case. Judge Sanchez set conditions of release of an unsecured appearance bond. Respondent altered the standard conditions of release and ordered that this nephew be allowed to leave the county of Mora during the pendency of his case.

2. Judge Sanchez ordered and signed an order appointing the Public Defender to represent his nephew in *State v. Daryl Sanchez*, MR-37-2009-0110, even though his nephew was not indigent and did not qualify for Public Defender representation based on income.

3. Judge Sanchez's admitted conduct set forth violated the Canons of the Code of Judicial Conduct. Judge Sanchez agreed that his admitted conduct as set forth constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose discipline against Judge Sanchez pursuant to Article VI, §32 of the New Mexico Constitution.

4. Judge Sanchez agreed to accept the following formal discipline from the Supreme Court:

a. Twelve-Month Supervised Probation and Formal Mentorship. Judge Sanchez agreed to complete a twelve-month supervised probation and formal mentorship. The Commission shall recommend the probation supervisor/mentor, for consideration and appointment by the Supreme Court. The probation supervisor/mentor shall report on the progress and outcome of the mentorship to the Supreme Court and the Commission.

b. Complete a Course from the National Judicial College.

Judge Sanchez agreed to attend all sections and complete a course from the National Judicial College recommended by the Commission and approved by the Supreme Court. Respondent agreed that he would not teach any portion of the approved course from the National Judicial College. Respondent agreed to pay all costs, including travel and tuition associated with attendance and completion of the course.

c. Formal Reprimand. Judge Sanchez agreed to accept a formal reprimand from the Supreme Court concerning the conduct admitted in this Stipulation Agreement and Consent to Discipline.

The Commission requested that the Formal Reprimand not be published in the *Bar Bulletin* because at the time Magistrate Judges did not receive the *Bar Bulletin* and there would be little educational value to other Magistrate Judges in publishing the formal reprimand.

In exchange for Judge Sanchez's admissions of violations of the Code of Judicial Misconduct and Willful Misconduct, the Commission agreed to abate all proceedings in the other pending Inquiries before the Commission, Inquiry Numbers 2009-070 and 2010-076, pending successful completion of the terms of the Stipulation Agreement. If Judge Sanchez successfully completed of the terms of the stipulation and the anticipated disciplinary order from the Supreme Court, the Commission agreed to close all of these Inquiry Numbers 2009-070, 2009-098, 2010-024 and 2010-076. If Judge Sanchez fails to comply with these detailed conditions, then his actions shall constitute a material breach of the Stipulation Agreement.

If Judge Sanchez violates any terms or provisions of this executed Stipulation Agreement and Consent to Discipline, Respondent agrees that all facts and charges admitted in this Stipulation Agreement and Consent to Discipline shall be deemed admitted by the Respondent and will be used against Respondent in future proceedings before the Commission and the Supreme Court.

On March 15, 2010, the Commission filed under seal in the New Mexico Supreme Court a Petition for Discipline upon Stipulation, requesting the Court to accept the terms of the parties' agreement for discipline in this matter.

On April 6, 2011, the Court held a hearing in this matter. Both the Commission and Judge Sanchez presented oral argument in the matter. The Court cautioned Judge Sanchez to abide by the terms of the Stipulation Agreement, and to recuse himself in matters which the Code requires him to do. The same day, the Court issued an order which ordered Judge Sanchez to complete a 12-month supervised probation and formal mentorship. The Court ordered the Commission to recommend the probation supervisor/mentor to be appointed by the Court. The probation supervisor/mentor shall report the progress and outcome of the mentorship to the Court and the Commission. The Court ordered Judge Sanchez to complete a course approved by the Commission from the National Judicial College. The Court orally formally reprimanded Judge Sanchez in open court for his misconduct in this matter, and did not publish the reprimand in the *Bar Bulletin*. The Court also unsealed the Supreme Court file in this matter.

On June 21, 2011, the Supreme Court approved Hon. Karen P. Mitchell to serve as mentor and probation supervisor for Judge Sanchez, and further ordered her to report Judge Sanchez's progress to both the Commission and the Court.

On December 1, 2011, the Commission filed its Interim Report on Respondent's Compliance with the Terms of the Supreme Court's Order. The Commission filed a copy of the certification of Judge Sanchez's completion of the National Judicial College course. Judge Mitchell continued to supervise Judge Sanchez on probation through June 22, 2012.

This matter was ongoing at the end of FY 2012. Subsequent events will be reported in the Commission's Annual Report for FY 2013.

MATTER OF HON. MICHAEL T. MURPHY
Third Judicial District Court, Doña Ana County
JSC Inquiry Nos. 2011-038 & 2011-069
Supreme Court Docket No. 32,933

On May 16, 2011, the Commission filed a Second Verified Petition for Immediate Temporary Suspension (Second Petition) with the Court. The Second Petition for Immediate Temporary Suspension alleged several actions by Respondent which violated the Code of Judicial Conduct, constituted willful misconduct in office

and warranted suspension from office pending the Commission's ongoing Inquiries against Respondent. The Second Petition for Immediate Temporary Suspension alleged, among other things:

1. On May 13, 2011, a grand jury in the Third Judicial District Court indicted the Respondent for four felony crimes. The Indictment alleged that the Respondent committed the crimes of Count 1: Demanding or Receiving Bribe by Public Officer or Public Employee, a third degree felony; Count 2: Bribery of a Public Officer or Employee, a third degree felony; Count 3: Criminal Solicitation, a fourth degree felony; and Count 4: Bribery, Intimidation or Retaliation of a Witness, a third degree felony; and

2. The felony allegations contained in the Indictment concern acts of dishonesty. The Indictment places the Respondent's integrity, honesty and character at issue. Respondent's continued service in a judicial capacity while he is being criminally investigated by the State of New Mexico and investigated by the Commission on the stated allegations would create an apparent conflict of interest and place the public, law enforcement officers, and others with whom the judge interacts in an official capacity at risk. Deference to Respondent's rulings in all judicial matters, especially in criminal cases, would be undermined. Moreover, Respondent's continued judicial service would create a significant appearance of impropriety and erosion of public confidence in the integrity and impartiality of the judiciary and in the orderly administration of justice.

In its Second Petition, the Commission noted that the Court has held that "to allow a judge who is not truthful to remain on the bench betrays the public trust and threatens the integrity and independence of the judiciary as a whole." *In re Rodella*, 2008-NMSC-050, ¶ 36, 190 P.3d 338, 144 N.M. 617. In *Rodella*, relying upon *In re Griego*, 2008-NMSC-020, ¶ 21, 143 N.M. 698, 181 P.3d 690, this Court went on to hold that, "we cannot allow a judge who lacks credibility 'to preside over cases in which he is charged with weighing evidence and determining the credibility of others.'" *Id.* "The conduct prescribed for judges and justices is more stringent than conduct generally imposed on other public officials." *In re Romero*, 100 N.M. 180, 668 P.2d 296, 299 (1983).

Later in the day on May 16, 2011, the Supreme Court issued an order which granted the Second Petition and immediately suspended Judge Murphy from judicial office without pay. The Court also unsealed the petition pursuant to Rule 27-104(B) NMRA.

On December 27, 2011, the Commission issued a Notice of Formal Proceedings in Inquiry No. 2011-069, which concerned other charges of misconduct. The Respondent filed his answer on January 17, 2012. The Notice of Formal Proceedings alleged:

1) That on December 10, 2010, while engaging in a conversation with Hon. Lisa Schultz, during business hours, Judge Murphy used offensive and/or derogatory and/or inappropriate language regarding a person or groups of persons which indicated bias and/or prejudice. It was alleged that this conduct failed to establish, and/or maintain and/or enforce high standards of conduct. It was alleged that this conduct failed to preserve the integrity and/or independence of the judiciary. It was alleged that this conduct failed to respect and comply with the law. It was alleged that this conduct failed to promote public confidence in the integrity and impartiality of the judiciary. It was alleged that this conduct allowed family, social or other relationships to influence his judicial conduct or judgment. It was alleged that Judge Murphy failed to be patient, dignified and courteous to others with whom Judge Murphy dealt with in his official capacity;

2) That between January 1, 2008 and February 4, 2010, Judge Murphy made offensive and/or derogatory and/or inappropriate statements regarding a person or groups of persons to Third Judicial Court staff members and others while in his capacity as a judge. It was alleged that his conduct indicated bias and/or prejudice. It was alleged that this conduct failed to establish, and/or maintain and/or enforce high

standards of conduct. It was alleged that this conduct failed to preserve the integrity and/or independence of the judiciary. It was alleged that this conduct failed to respect and comply with the law. It was alleged that this conduct failed to promote public confidence in the integrity and impartiality of the judiciary. It was alleged that this conduct allowed family, social or other relationships to influence his judicial conduct or judgment. It was alleged that Judge Murphy failed to be patient, dignified and courteous to others with whom Judge Murphy dealt with in his official capacity.

The Commission set the trial for this matter to begin on February 27, 2012, and the parties conducted discovery. The Examiner had scheduled to take Judge Murphy's deposition on February 1, 2012. On February 2, 2012, Judge Murphy and the Commission entered into a Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings. In the Stipulation, Judge Murphy agreed to permanently resign and never hold office, or seek office again, effective February 24, 2012. In exchange, the Commission agreed to close all cases pending against Judge Murphy (Inquiry Nos. 2011-069, 2011-038, 2011-048, and 2011-050). In the Stipulation, Judge Murphy requested that the Supreme Court case concerning Inquiry No. 2011-069 remain sealed until he resigned on February 24, 2012. The Commission agreed to not oppose this request, but expressly pled that the Commission may not bind the Court to any action.

On February 2, 2012, the Commission filed a Motion to Accept Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings concerning JSC Inquiry No. 2011-069. In response to a request from the Court, on February 6, 2012 the parties filed responses explaining their positions pertaining to the delayed unsealing of the Supreme Court file.

On February 8, 2012, the Court issued an order accepting the Stipulation to Permanent Resignation from Judicial Office. The Court ordered Judge Murphy to permanently resign effective February 24, 2012. The Court ordered that Judge Murphy would never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. The Supreme Court also unsealed all the Supreme Court pleadings in JSC Inquiry No. 2011-069.

MATTER OF HON. ALBERT S. "PAT" MURDOCH

Second Judicial District Court

JSC Inquiry No. 2011-068

Supreme Court Docket No. 33,127

On July 19, 2011, Hon. Albert S. "Pat" Murdoch was arrested and charged with the felonies, Criminal Sexual Penetration and Intimidation of a Witness.

On July 20, 2011, the Commission reviewed and deliberated upon the underlying preliminary evidence in the matter and determined that it was appropriate to request that the Supreme Court immediately temporarily suspend Judge Murdoch without pay. On the same day, the Commission filed under seal a Verified Petition for Immediate Temporary Suspension with the New Mexico Supreme Court. The Petition for Immediate Temporary Suspension (Petition) alleged several actions by Respondent that violated the Code of Judicial Conduct, constituted willful misconduct in office and warranted suspension from office pending the Commission's ongoing inquiry against Respondent. The Petition for Immediate Temporary Suspension specifically alleged:

1) That on or about July 19, 2011, Judge Murdoch was arrested and charged with Criminal Sexual Penetration and Intimidation of a Witness, which was filed in the Metropolitan Court, Albuquerque;

2) That on or between May 1, 2011 and June 30, 2011 on approximately eight occasions, Judge Murdoch knowingly hired a prostitute or someone he believed to be a prostitute to engage in sexual acts with him;

3) That on or between May 1, 2011 and June 30, 2011 on approximately eight occasions, Judge Murdoch caused the victim to unlawfully engage in sexual acts with him through the use of physical force;

4) That on or between May 1, 2011 and June 30, 2011 on approximately eight occasions, Judge Murdoch intimidated a witness or person likely to become a witness in any judicial cause or proceeding for the purpose of preventing such individual from testifying to any fact.

The Commission informed the Court that it was conducting an investigation into Respondent's conduct. The Commission certified that Respondent's immediate temporary suspension from judicial office without pay was necessary pending termination of the State's criminal prosecution and the Commission's proceedings.

On July 20, 2011, the New Mexico Supreme Court ordered Judge Murdoch to file a response to the Petition by July 25, 2011 and set oral argument for July 27, 2011. Later on July 25, 2011, the Commission filed with the Court a Stipulated Motion to Accept Immediate Temporary Suspension in which Judge Murdoch agreed that it was appropriate for the Court to suspend him pending the criminal prosecution against him. Also on July 25, 2011, Judge Murdoch filed his Motion For Enlargement of Time Regarding July 25, 2011 Briefing Deadline and Motion to Reset July 27, 2011 Oral Argument Setting. Later that day, the Supreme Court denied Judge Murdoch's motion.

On July 26, 2011, the parties entered into a Stipulation to Permanent Retirement from Judicial Office (Stipulation to Retirement). It provided in pertinent part the following:

1. Respondent agrees to permanently retire as judge of the Court of Appeals for the State of New Mexico effective at the close of business on July 29, 2011.

2. Upon retirement, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve pro tempore for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

On July 26, 2011, the Commission filed with the Court a Motion to Accept Stipulation to Permanent Retirement From Judicial Office Effective July 29, 2011 in Lieu of Further Disciplinary Proceedings.

On July 26, 2011, the Supreme Court issued an order that accepted Judge Murdoch's agreement to permanent retirement from judicial office and the other terms of the Stipulation to Retirement. The Court also unsealed the file in this matter. On July 29, 2011, Judge Murdoch permanently retired from judicial office.

MATTER OF HON. WILMA CHARLEY
San Juan County Magistrate Court
JSC Inquiry Nos. 2010-090 & 2011-059
Supreme Court Docket No. 32,903

The Judicial Standards Commission issued Notices of Formal Proceedings in both inquiries on September 12, 2011. In Inquiry No. 2010-090, the Commission charged Judge Wilma Charley with 26 Counts of issuing illegal sentences in 26 separate criminal cases in San Juan Magistrate Court. The Commission also charged Judge Charley with improperly abusing the contempt power by ordering the incarceration of Deputy District Public Defender Christian Hatfield who was present in the court for a motion hearing in the matter of *State of New Mexico v. Ismael Cordova*, Case No. M-147-VR-06-228, and violating Mr. Hatfield's due process rights. The Commission further charged Judge Charley with failing to follow the orders of the District Court and failing to be patient, courteous and dignified to litigants and others she dealt with in an official capacity. In Inquiry No. 2011-059, the Commission charged:

1) That on or about or between January 1, 2007 and August 31, 2011, Judge Charley failed to work the hours required of a Magistrate Judge mandated by statute and/or the New Mexico Supreme Court and/or the Administrative Office of the Courts and/or the presiding judge in San Juan Magistrate Court in Aztec;

2) That on or about or between January 1, 2007 and August 31, 2011, Judge Charley failed to comply with Supreme Court Order No. 05-8500, which requires that Magistrate Judges provide the Administrative Office of the Courts (AOC) with a doctor's statement "giving both the diagnosis and prognosis" so that the AOC may plan for the coverage of the court;

3) That on or about or between December 7, 2010 and August 31, 2011 Judge Charley failed to comply with the December 7, 2010 directive from the director of the Administrative Office the Courts regarding the adequacy of required doctor's statements for medical excuses;

4) That on or about or between September 16, 2009 and August 31, 2011, Judge Charley failed to comply with Supreme Court Order No. 09-8200, which requires associated judges to obtain approval of the presiding judge for any leave. That, Judge Charley failed to comply with San Juan Magistrate Court in Aztec Local Rule No. 1, which requires associated judges to obtain approval of the presiding judge for any leave;

5) Judge Charley failed to comply with Supreme Court Rules 6-103 and 2-103, which provide that the director of the Administrative Office of the Courts has the authority to prescribe rules or regulations relating to office hours and procedures;

6) That on or about or between January 1, 2010 and February 28, 2011, Judge Charley failed to perform official judicial duties by failing to timely complete the required Magistrate Training, either in person or by video. It is further alleged that Judge Charley disobeyed the directive of the Administrative Office of the Courts and/or the presiding judge by taking leave to watch the required Magistrate Training video;

7) That on or about or between January 1, 2011 and February 28, 2011, Judge Charley performed official judicial duties when Judge Charley was not certified to do so;

8) That on or about or between January 1, 2011 and August 31, 2011, Judge Charley had demonstrated a lack of fitness, and/or unwillingness, and/or inability and/or a persistent failure to perform judicial duties; and

9) That on or about or between January 1, 2007 and August 31, 2011, Judge Charley failed to be patient, courteous and dignified with court staff and/or fellow judges.

Judge Charley never filed a response to the Notice of Formal Proceedings.

On September 19, 2011, the Commission filed a Verified Petition for Immediate Temporary Suspension Without Pay in the New Mexico Supreme Court. The Commission based its request to the Court to suspend Judge Charley without pay on the facts contained in the Notice of Formal Proceedings in both inquiry numbers pending before the Commission. The Commission pointed out to the Court that Judge Charley demonstrated a pattern of improper absences and failure to work the statutorily required 40 hours a week. She blatantly disregarded the Administrative Office of the Courts' Director's directive to provide a doctor's statement that complied with the New Mexico Supreme Court Order addressing absences. Judge Charley's continued failure to work as required impeded the administration of justice in San Juan County. Judge Charley did not persistently work the statutorily required 40 hours per week. Judge Charley continued to fail to comply with the Supreme Court Order that requires magistrates to produce a valid justification to be absent from work. Judge Charley's unexcused absences in November 2010 caused felons to be released from jail and had other negative impacts on the justice system. Judge Charley did not attend the required magistrate training prior to her certification expiring and acted in her official capacity without legal authority to do so. Judge Charley stated that she would work 20 hours a week, but failed to work this amount every week.

On September 30, 2011, the Commission and Judge Charley entered into a Stipulation to Permanent Retirement from Judicial Office Effective September 30, 2011 in Lieu of Further Disciplinary Proceedings. On the same day, the Commission filed in the New Mexico Supreme Court a Petition to Accept Stipulation to Permanent Retirement from Judicial Office Effective September 30, 2011 in Lieu of Further Disciplinary Proceedings. On October 11, 2011, the Court issued an order accepting the Stipulation to Permanent Retirement from Judicial Office Effective September 30, 2011 and order to unseal the Supreme Court file in this matter.

MATTER OF HON. KENT WINGENROTH
Dona Ana County Magistrate Court
JSC Inquiry No. 2011-020
Supreme Court Docket No. 33,228

The Commission issued a Notice of Formal Proceedings on July 28, 2011 to Judge Wingenroth (Respondent). He responded on August 22, 2011. On September 23, 2011, the Commission and Judge Wingenroth entered into a Stipulation Agreement and Consent to Discipline. In the agreement, Judge Wingenroth admitted the following:

1. Between January through February 2010 Respondent personally participated in the solicitation of funds or other prohibited fund-raising activities for the Super Bowl Golf Fore Baseball Tournament, a benefit for the Las Cruces and Ocate High School baseball programs. Respondent used the prestige of judicial office for fund-raising and/or created the appearance that he had done so;

2. On or about or between January through February 2011 Respondent personally participated in the solicitation of funds or other prohibited fund-raising activities for Super Bowl Golf Fore Baseball Tournament, a benefit for the Las Cruces and Ocate High School baseball programs. Respondent used the prestige of judicial office for fund-raising and/or created the appearance that he had done so;

3. On or about February 6, 2011, following the Super Bowl Golf 4 Baseball Tournament, Robert Jaurequi, a juvenile probation officer, was arrested for Driving While Intoxicated (DWI) by the New Mexico State Police. Even though Respondent was not the designated on-call Las Cruces Magistrate Judge for February 2011, the State Police Dispatch erroneously informed Officer Mike Ramirez that Respondent was the on-call judge. Officer Ramirez called Respondent to request judicial authority to release the defendant on his own recognizance. Respondent admitted to the officer that he knew the defendant. Respondent admitted that had been at a golf tournament earlier in the day with the defendant, in which Respondent knew there were people drinking alcoholic beverages, and therefore Respondent was a potential witness in the criminal case. Respondent made a judicial ruling in this case in which he was a potential witness;

4. On or about February 6, 2011, the wife of criminal defendant, Robert Jaurequi, phoned Respondent's wife on Respondent's wife's cell phone while the Respondent's wife was at home. The defendant's wife wanted to discuss the defendant's arrest for Driving While Intoxicated. Defendant Robert Jaurequi and/or defendant's wife knew Respondent's family well enough to call Respondent's wife at home in an attempt to influence Respondent. Respondent agreed to release the defendant even though he was not on-call or assigned to handle the matters. Respondent took judicial action in defendant Robert Jaurequi's case when Respondent's home had received phone calls from the defendant's family prior to Respondent's action;

5. Judge Wingenroth's admitted conduct set forth violated the Canons of the Code of Judicial Conduct. Judge Wingenroth agreed that his admitted conduct as set forth constituted willful misconduct in office and provided sufficient basis for the New Mexico Supreme Court to impose discipline against Judge Wingenroth pursuant to Article VI, §32 of the New Mexico Constitution.

Judge Wingenroth agreed to accept the following formal discipline from the Supreme Court:

A. Public Censure. Respondent agreed to accept a public censure from the Supreme Court concerning the conduct admitted in this Stipulation Agreement and Consent to Discipline. Public censures are published in the Bar Bulletin.

B. Twelve-Month Supervised Probation and Formal Mentorship. Respondent agreed to participate in a twelve-month supervised probation and formal mentorship. The Commission agreed to recommend the probation supervisor/mentor, for consideration and appointment by the Supreme Court. The probation supervisor/mentor shall report on the progress and outcome of the mentorship to the Supreme Court and the Commission;

C. Abide by all terms of the Stipulation Agreement and Consent to Discipline.

D. Respondent and the Judicial Standards Commission agreed to bear their own costs and expenses in this matter.

On September 23, 2011, the Commission filed under seal in the New Mexico Supreme Court a Petition for Discipline upon Stipulation, requesting the Court accept the terms of the parties' agreement for discipline in this matter.

On October 19, 2011, the Court held a hearing in this matter. Both the Commission and Judge Wingenroth presented oral argument in the matter. The Court cautioned Judge Wingenroth to abide by the terms of the Stipulation Agreement, and to recuse himself in matters which the Code requires him to do so. The same day, the Court issued an order which ordered Judge Wingenroth to complete a twelve-month supervised probation and formal mentorship. The Court ordered the Commission to recommend the probation supervisor/mentor to be appointed by the Court. The Court also unsealed the Supreme Court file in this matter.

On November 7, 2011, the Supreme Court approved Hon. Russell Martin to be mentor and probation supervisor for Judge Wingenroth, and further ordered him to report Judge Wingenroth's progress to both the Commission and the Court. Judge Wingenroth remains on probation through November 7, 2012.

This matter was ongoing at the end of FY 2012. Subsequent reportable events will be provided in the Commission's Annual Report for FY 2013.

MATTER OF HON. OLIVIA N. GARCIA
Dona Ana County Magistrate Court
JSC Inquiry Nos. 2010-102, 2011-026 & 2011-085
Supreme Court Docket No. 33,285

After completing preliminary investigations, the Judicial Standards Commission issued Notices of Formal Proceedings, to which answers were filed, in Inquiry Nos. 2010-102 and 2011-026. The Commission also issued the Notice of Preliminary Investigation in 2011-085.

In Inquiry Number 2010-102, on December 21, 2010, the Commission filed the Notice of Formal Proceedings. The Commission charged Judge Garcia (Respondent) as follows:

1) That on or about April 21, 2010 in the case of State v. Samuel Lara, M-14-FR-201000304, Judge Garcia first conducted a hearing without Mr. Lara's attorney present and set conditions of release in the matter. It was alleged that Judge Garcia then signed and directed documents to be filed reflecting her orders pertaining to the arraignment hearing. It was alleged that later the same day Judge Garcia subsequently engaged in an *ex parte* communication with a prosecutor regarding Mr. Lara's criminal history. It was alleged that Judge Garcia then conducted a second hearing in this case without Mr. Lara's attorney being present. It was alleged that during this second *ex parte* hearing Judge Garcia questioned Mr. Lara and made a ruling, changing Mr. Lara conditions of release. It was alleged that Judge Garcia deprived Mr. Lara of his right to counsel; and

2) That on or about April 21, 2010 in the case of State v. Samuel Lara, M-14-FR-201000304, Judge Garcia directed staff to alter and/or tamper with previously filed public documents reflecting an increase the amount of Mr. Lara's bond from \$8,000 (Bail Bond) to \$50,000 cash only bond.

Judge Garcia filed her Answer in Inquiry No. 2010-102 on January 7, 2011.

In Inquiry Number 2011-026, the Notice of Formal Proceedings was filed on July 28, 2011 and Respondent filed her Answer on August 19, 2011. The Notice of Formal Proceedings in this matter charged:

1) That in the matter of State v. Alexia Severson, Cause No. M-14-DR-21000564, Judge Garcia failed to provide the law enforcement officers and/or the State of New Mexico an opportunity to be heard prior to ruling in the case;

2) That in the matter of State v. Alexia Severson, Cause No. M-14-DR-21000564, Judge Garcia participated in the plea negotiations, contrary to Rule 6-502 NMRA; and

3) That in the matter of State v. Alexia Severson, Cause No. M-14-DR-21000564, Judge Garcia improperly influenced the criminal defendant not to plead guilty. It was alleged that Judge Garcia improperly gave an advisory opinion in State v. Alexia Severson, Cause No. M-14-DR-21000564.

In Inquiry Number 2011-085, the Notice of Preliminary Investigation was filed on November 3, 2011 and the Respondent did not respond. The Notice of Preliminary Investigation alleged that on February 15,

2011 in the case of Cole v. Rodriguez and Pantoya, M-14-CV-201100315, Judge Garcia committed clear legal error when she failed to follow the law regarding the amount of time tenants are required to give landlords prior to vacating a rental property. It was alleged that this was not the first time Judge Garcia committed clear legal error in misapplying this law in other landlord/tenant cases. It was alleged that Judge Garcia had made disparaging remarks about litigant Patricia Cole's hearing loss and/or hearing disability from the bench. It was also alleged that Judge Garcia's remarks indicated bias and/or gave the appearance of bias in Ms. Cole's case(s).

On November 7, 2011, the Commission and Judge Garcia entered into a Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings. On the same day, the Commission filed in the New Mexico Supreme Court a Petition to Accept Stipulation to Permanent Retirement from Judicial Office Effective December 31, 2011 in Lieu of Further Disciplinary Proceedings (Stipulation to Permanent Retirement). In the Stipulation to Permanent Retirement, Judge Garcia also agreed to pay the costs of her deposition the Commission took in Inquiry No. 2010-102. On November 21, 2011, the Court issued an order accepting the Stipulation to Permanent Retirement. The Court also unsealed the matter.

On December 31, 2011, Judge Garcia permanently retired from judicial office.

MATTER OF CONFIDENTIAL INQUIRY CONCERNING A JUDGE

The Commission initiated formal proceedings against a judge concerning allegations that the judge engaged in discrimination. During the course of the proceedings, based on a number of relevant considerations, and without making any findings of wrongdoing, the Commission disposed of the matter through the judge's completion of informal remedial measures.

MATTER OF STEPHEN G. RYAN, ESQ. ***Former Judge, Las Cruces Municipal Court*** ***JSC Inquiry Nos. 1996-06, 1996-60 & 1996-65*** ***Supreme Court Docket No. 32,369***

The Judicial Standards Commission issued a Notice of Formal Proceedings to then Judge Stephen G. Ryan on July 6, 1997, to which he responded on June 25, 1997. On September 5, 1997, the Judicial Standards Commission and Respondent entered into a Stipulation. In the Stipulation, Respondent admitted that he

1) was chronically late for the business of the court, to the detriment of defendants, complainants, witnesses and attorneys;

2) he used language that was profane, discourteous, disrespectful and/or undignified in the Court facility and in the presence of court employees;

3) that on September 15, 1995, in Cause No. 1994-07-44013, City of Las Cruces v. Gloria Salazar, he entered a "not guilty" verdict and told the complainant, Monica Ransom, "that the defendant, Gloria Salazar, could lawfully batter complainant in public or in complainant's own home, because the defendant had a right to defend her marriage." Further, he told the defendant, Gloria Salazar, that "New Mexico law recognize[d] that a marriage between a husband and a wife is a lawful union, and if someone tried to separate that union, the other spouse would have every right to protect that union;"

4) that Respondent's wife, Trevas Younger Ryan, acting on behalf of Respondent's campaign for election in the Fall of 1995 to the Municipal Court and his campaign for election to District Court in the Spring of 1996, "solicited donations of money and/or time from attorneys practicing in the Municipal Court" whom Respondent appointed to represent indigent defendants for a fee being paid by the City of Las Cruces, and with attorneys with cases pending in the Municipal Court, "which solicitations gave the appearance of impropriety;"

5) that in Cause No. 1996-07-53695, City of Las Cruces v. David Hinojosa, Respondent dismissed "with prejudice" the case during an arraignment after purportedly hearing the defendant's explanation, without testimony from the officer, and basing his decision that the complaint was "on its face" unconstitutional and stated that if the office had a problem with the dismissal he "could take it up" with Respondent; and

6) that between March 1994 and November 1995, Respondent sentenced 15 defendants with prior Driving While Intoxicated (DWI) convictions, failed to require the defendants to serve mandatory time in jail after conviction, in a manner which was contrary to State sentencing laws for DWI convictions. Respondent dismissed charges of DWI in these cases contrary to State law. Respondent created a new position known as DWI Drug Court Judge and a new court called DWI Drug Court, without authorization of the Las Cruces City Council.

In the 1997 Stipulation, Respondent admitted that his actions constituted willful misconduct. He further agreed that the Commission would submit the matter to the Supreme Court if he ever sought judicial office again.

On December 29, 2011, Respondent mailed a letter to the Commission, indicating that he was seeking appointment to judicial office in the Las Cruces Municipal Court. Pursuant to the terms of the 1997 stipulation agreement, on January 5, 2012, the Commission filed a Petition to Enforce Stipulation and for Discipline with the New Mexico Supreme Court. Due to the nature and extent of Respondent's willful misconduct, the Commission requested the Court permanently bar Respondent from ever holding or seeking judicial office again. The Court set the matter to be heard on February 1, 2012 and ordered Respondent to file a response on January 30, 2012. In his lengthy written Response, Respondent argued, among other things, that he had not committed the misconduct that he had stipulated to in 1997.

On February 1, 2012, the Court heard argument from both parties. The Court adopted the September 5, 1997 stipulation between the Commission and the Respondent, and found that the Respondent would be sanctioned for willful misconduct. The Court unsealed the matter and remanded the case to the Commission to conduct a hearing to recommend an appropriate sanction to the Court.

On February 27, 2012, the Commission conducted a penalty hearing in this matter. At the hearing, the Commission heard from three witnesses: Harry "Pete" Connely, Esq., Lori Colquitt, and Respondent. The Commission also considered exhibits and arguments from both parties. After deliberation, and upon unanimous vote of the ten participating members, the Commission recommended that the Supreme Court discipline Respondent by 1) permanently barring him from judicial office, and 2) assessing him the Commission's costs and expenses. On April 19, 2012, the Commission filed a Motion to Adopt Recommendations for Sanctions and Comparative Discipline in Support of Commission's Recommendation for Sanctions with New Mexico Supreme Court.

The Supreme Court ordered the Respondent to file a response by May 30, 2012 and set the matter for a hearing on June 20, 2012. In his Response, Respondent told the Court that he would never seek judicial office again. After hearing from both parties, on June 20, 2012, the Court ordered that Respondent would never hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future, shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial

office in the future; and pay the Commission's costs of 647.74 after July 1, 2012 and before August 1, 2012. Respondent did not pay the costs to the Commission by the date ordered. Respondent informally sought to modify the payment terms with the Commission. The Commission filed a motion to amend the final order to add a customary judgment interest rate. The Court ordered Respondent to respond to the Commission's motion.

This matter was ongoing at the end of FY 2012. Subsequent events will be reported in the Commission's Annual Report for FY 2013.

MATTER OF CONFIDENTIAL INQUIRY

After the Commission issued a Notice of Formal Proceedings to a judge and conducted a full hearing on the merits, it found by clear and convincing evidence that a judge acted in a representative capacity of a relative beyond the scope allowed by Rule 21-500(G) NMRA 1995, in violation of Rules 21-100, 21-200 (A), and 21-500(A)(2), (A)(4) and (G) of the Code of Judicial Conduct. The Commission opted not to petition the Supreme Court for sanctions based on the unique factors of the case, as provided by Judicial Standards Commission Rules. The matter was then closed.

MATTER OF HON. STEPHEN S. SALAZAR

Espanola Municipal Court

JSC Inquiry No. 2011-035

Supreme Court Docket No. 33,601

After completing a preliminary investigation, the Judicial Standards Commission issued a Notice of Formal Proceedings to Judge Salazar on October 7, 2011. The Commission charged:

1) That on or about October 22, 2010 in the matter of George Luna, d/b/a Aces Towing and Recovery LLC, Judge Salazar issued a "Release Order" and had no jurisdiction to issue such an order;

2) That on or about October 22, 2010 in the matter of George Luna, d/b/a Aces Towing and Recovery LLC, Judge Salazar issued an order ex parte without giving all parties notice and an opportunity to be heard in the matter. It was alleged that he deprived a party and/or parties' due process of law.

Judge Salazar filed his Answer on October 27, 2011, in which he denied the charges. The Commission set the matter for trial to begin on February 29, 2012. On January 12, 2012, Judge Salazar filed a motion with the Commission requesting to continue the trial setting. The motion was granted and a trial was reset for April 2, 2012.

On April 2, 2012, the Commission conducted a trial in this matter. At the beginning of trial, Judge Salazar filed an Admission to the Notice of Formal Proceedings. In his admission, Judge Salazar admitted both counts of misconduct contained in the Notice of Formal Proceedings. As a preliminary matter at the trial, the Commission deliberated and unanimously agreed to accept Judge Salazar's admissions of misconduct. After accepting Judge Salazar's admissions and finding that Judge Salazar committed willful misconduct, the Commission heard and considered evidence in the penalty phase of the trial, pursuant to Commission Rule 24(E)(8) NMRA (2010).

The Commission found that Judge Salazar violated the following Rules: 21-100 NMRA 1995; 21-200(A) and (B) NMRA 1995; 21-300(A) NMRA 2009; and 21-300(B)(2), (B)(5), (B)(7), (B)(8) NMRA 2009 of the Code of Judicial Conduct, and committed willful misconduct in office.

The Commission found that Judge Salazar failed to establish, maintain and enforce high standards of conduct when he signed an *ex parte* order in the lobby of his courthouse at the request of one of the parties, David Vigil, on October 22, 2010. Judge Salazar had improperly and *ex parte* requested David Vigil's attorney, Santiago Juarez, to prepare the order which was in favor of David Vigil. David Vigil was the son of a member of Judge Salazar's church, where there are approximately 400 members. Judge Salazar knew both David Vigil and Mr. Vigil's father prior to signing the October 22, 2010 order.

The Commission found that in the illegal order, Judge Salazar ordered George Luna, d/b/a as Aces Towing and Recovery LLC (George and David Luna and Aces Towing), to return a motorcycle to David Vigil, which the police had towed during the course of a criminal case which was pending before the Rio Arriba Magistrate Court. Judge Salazar never inquired if the matter was pending in Rio Arriba Magistrate Court or was part of any other action in any other court. There is no legal authority or theory which would give Espanola Municipal Court jurisdiction over the subjective matter of Judge Salazar's order. The illegal *ex parte* order was directed at George Luna and Aces Towing, but Judge Salazar never gave notice or an opportunity to be heard to the opposing party, the Lunas or their company, Aces Towing.

The Commission found that on October 22, 2010, when signing the illegal order, Judge Salazar improperly embossed the seal of the Espanola City Court upon the order, even though there was no case pending or court file existing in the Espanola Municipal Court for the matter. Judge Salazar never kept a copy of the illegal order, but rather gave the original signed order to David Vigil. On November 17, 2010, Mr. Luna and Aces Towing filed a Petition for Writ of Prohibition and Superintending Control (Writ Petition) in the District Court seeking to quash the October 22, 2010 order Judge Salazar issued against Aces Towing. The Writ Petition submitted law and facts to support that Judge Salazar's October 22, 2010 order was illegal and without jurisdiction. On June 30, 2011, the First Judicial District Court granted Aces Towing's Writ Petition and quashed Judge Salazar's October 22, 2010 order.

The Commission found that Judge Salazar could have rescinded his October 22, 2010 order but never made any attempt to do so. Judge Salazar stated that he did not rescind the October 22, 2010 order on advice of counsel. Judge Salazar's conduct regarding his issuance of the *ex parte* order and illegal actions failed to preserve the integrity and independence of the judiciary.

The Commission heard both documentary and testimonial evidence that the Commission had previously found that Judge Salazar had committed willful misconduct in a prior case after a trial on the merits conducted from November 2 through November 5, 2009, in Commission Inquiry Numbers 2006-075, 2007-033 and 2007-086. In the prior case, the Commission found that Judge Salazar had willfully failed to afford due process of law to criminal defendants, such as depriving criminal defendants of the right to counsel and the right to trial. The Commission also found in the prior case that Judge Salazar willfully attempted to use his judicial office to assist a party's interest in a domestic violence matter to try to locate the other party at a domestic violence shelter.

The Commission further found that after the trial in the prior case, the Commission imposed an informal disposition which was dependent upon Judge Salazar fulfilling certain conditions. Judge Salazar was required to: 1) successfully complete one year of supervised probation from January 8, 2010 through January 8, 2011, which Hon. Peggy Nelson supervised; 2) complete a class on ethics at the National Judicial College in Reno, Nevada at his own expense; 3) complete a course on domestic violence; and 4) reimburse \$2,000 of the costs of the trial. In the prior case, the Commission agreed not to refer the matter to the New Mexico Supreme Court if Judge Salazar completed the conditions of the informal disposition. With

the exceptions of the failure to report and the willful misconduct found herein, Judge Salazar fulfilled the conditions imposed.

In making its recommendation for discipline in the present matter, the Commission heard and considered at the time Judge Salazar issued the illegal *ex parte* order benefiting David Vigil on October 22, 2010, Judge Salazar was on supervised probation with Hon. Peggy Nelson for due process violations, jurisdictional violations, and misuse of his judicial office to benefit a private party. The Commission heard and considered that while on probation, Judge Salazar had failed to report to the Commission and failed to report to his probation supervisor, Judge Nelson, that he had signed an illegal *ex parte* order without jurisdiction benefiting a private party. Judge Salazar also failed to report to Judge Nelson or to the Commission that during the term of his probation Aces Towing had filed a Petition for Writ of Prohibition against him in the District Court alleging Judge Salazar had committed serious due process violations. The 2009 Conditional Order for Informal Disposition specifically stated that the prior case could be reported to the Supreme Court if Judge Salazar violated any term of the order.

The Commission heard and considered that in the pending case, Judge Salazar admitted the charges against him and admitted that he had committed willful misconduct in office.

After deliberation and upon a unanimous vote, the Commission recommended that the Supreme Court impose the following discipline upon Judge Salazar:

a. 90-day Unpaid Suspension. Judge Salazar shall be suspended from judicial office for ninety (90) days without any pay. The period of suspension shall commence on the first day of the full pay period immediately following the Supreme Court's disciplinary order in this matter.

b. Public Censure. Judge Salazar shall receive a formal public censure, which shall be published in the Bar Bulletin.

c. Probation for Remainder of Current Term of Office. Judge Salazar shall be placed on probation for the remainder of the current term of office. If the Commission charges Judge Salazar with any further violations of the Code of the Judicial Conduct during his current term of office, the Commission may file a petition in this case with the New Mexico Supreme Court requesting that Judge Salazar be immediately suspended and/or removed from judicial office.

d. Assessment of Commission's Costs and Expenses. Judge Salazar shall pay the Commission's costs and expenses incurred in this matter as permitted by Supreme Court Rule 27-403 NMRA.

On May 1, 2012 the Commission filed a Petition for Discipline in the Supreme Court and the court record from the trial before the Commission. On May 3, 2012 the Commission filed its Certified Memorandum of Costs. On June 22, 2012, Judge Salazar filed his Response to Judicial Standards Commission Petition for Discipline. In his Response, Judge Salazar requested the Court consider facts in mitigation, including that he participated in a mentorship with Judge Peggy Nelson. On July 9, 2012, the Commission filed its Reply to Response to Petition for Discipline. In its Reply, the Commission pointed out that Judge Salazar signed an illegal *ex parte* order to benefit a fellow church member's son while on probation for prior acts of willful misconduct in office and Judge Salazar also failed to inform the Commission or his mentor, Judge Nelson, of his new violations.

On July 18, 2012, the Supreme Court held a hearing in this matter. After hearing from both sides, the Court orally proclaimed its findings in open court that day. On August 1, 2012, the Court issued a written order reflecting its findings of July 18. The Court ordered that Judge Salazar:

- 1) Be suspended from judicial office for 90 days without pay beginning August 1, 2012;
- 2) Receive a public censure to be published in the Bar Bulletin and by the New Mexico Compilation Commission;
- 3) Pay restitution to the injured parties who were required to file a petition for writ of prohibition and superintending control in the First Judicial District Court that resulted in the quashing of Judge Salazar's order of October 22, 2010;
- 4) Be assessed costs in the sum of \$2853.84, which Judge Salazar shall pay to the Judicial Standards Commission;
- 5) Shall pay all costs and restitution no later than six (6) months from the date of this order;
- 6) Shall neither request nor accept payment of his salary, the costs imposed by this order, or any personal expenses he incurred before the Commission and this Court.

On August 27, 2012 the Commission filed with the Supreme Court a Motion for Clarification of Amendment or Order to Include Customary Interest Rate and Definite Amount of Restitution Owed to George and Dave Luna, Owners of Aces Towing Company. As of August 31, 2012, the Supreme Court has not ruled on the Commission's pending Motion.

This matter was ongoing at the end of FY 2012. Subsequent events will be reported in the Commission's Annual Report for FY 2013.

MATTER OF HON. THOMAS J. HYNES
Eleventh Judicial District Court
JSC Inquiry Nos. 2011-042 & 2012-045
Supreme Court Docket No. 33,610

On May 7, 2012 the Commission filed a Petition for the Temporary Suspension of Judge Hynes based in part on the following information:

On May 7, 2012 a call was received from the New Mexico State Police advising the Commission that Judge Hynes and a companion were involved in an altercation on May 4, 2012 at a Farmington restaurant. A complaint was subsequently filed by the owner of the restaurant who alleged that Judge Hynes and a companion became abusive after they were refused service of alcoholic beverages because both appeared intoxicated.

Judge Hynes was on probation with the Commission and was carrying out remedial measures from a prior alcohol related complaint when the above incident occurred. In Inquiry No. 2011-042, Judge Hynes was alleged to have been drinking while on call and performing judicial duties with respect to a warrant request from a DWI officer with the Farmington Police. Judge Hynes admitted that he had been drinking and that he violated several provisions of the Code. He agreed to the following disposition: 12 weeks of alcohol/substance abuse counseling (currently ongoing), random alcohol/substance abuse testing at the Commission's discretion, 12-month unsupervised probation, no alcohol/drug consumption while on duty or on call, and reporting to the Lawyers and Judges Assistance Committee.

On May 17, 2012, the Commission and Judge Hynes entered into a Stipulation to Permanent Resignation from Judicial Office effective May 31, 2012. The petition provided in part:

Respondent agrees to permanently resign as Judge of the Eleventh Judicial District Court, Division VI, Farmington, New Mexico effective 5 p.m. on May 31, 2012. Upon acceptance of this stipulation by the New Mexico Supreme Court, Respondent shall submit duplicate original letters of resignation to the Chief Justice of the New Mexico Supreme Court, the Administrative Office of the Court and to the Governor. Respondent shall concurrently provide a copy of the resignation letter to the Commission. Upon resignation, respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future. Respondent shall never seek, accept appointment to, or serve pro tempore for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in municipal court, probate court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.

Upon execution of this Stipulation to Permanent Resignation from Judicial Office in Lieu of Further Disciplinary Proceedings and acceptance by the Supreme Court, the Commission will abate and close this matter pending against the Respondent before the Commission (Inquiry No. 2012-045).

On May 30, 2012 the Supreme Court granted the Stipulation to Permanent Resignation from Judicial Office. Judge Hynes permanently resigned as agreed on May 31, 2012.

MATTER OF HON. MICHAEL G. RAEI

Questa Municipal Court

JSC Inquiry No. 2011-040

Supreme Court Docket No. 33,633

On December 9, 2011, the Commission issued a Notice of Preliminary Investigation to Judge Michael Rael. Judge Rael filed his answer on December 22, 2011. On March 9, 2012, the Commission issued a Notice of Formal Proceedings to Judge Rael, to which he responded on April 13, 2012. An amended Notice of Formal Proceedings was filed by the Commission on April 25, 2012 and Judge Rael filed his response to the amended Notice of Formal Proceedings on April 27, 2012.

On May 23, 2012, Judge Rael and the Commission entered into a Stipulation Agreement and Consent to Discipline. The same day, the Commission filed a Petition to Accept Stipulation Agreement and Consent to Discipline with the Supreme Court. The petition provided in part:

On March 02, 2011 a criminal complaint was filed in Respondent's court in the matter of Village of Questa vs. Thomas Chavez, No. 11-0206. In the complaint, Mr. Cisneros alleged that Mr. Chavez vandalized his vehicle causing \$2700.00 worth of damages. On March 31, 2011, Respondent issued a restraining order without jurisdiction to do so, which was based on *ex parte* communications and the judge's personal knowledge of facts outside the scope of the complaint or any court proceeding.

Respondent claimed that in an effort to prevent further conflict between the two parties, he issued a "Temporary Restraining Order" (TRO). Respondent admits that he was without jurisdiction to issue the TRO.

Respondent agreed that his issuance of the TRO was a knowing and intentional act and, at the time it was issued, he knew that he did not have jurisdiction to issue it. Respondent issued the TRO based on his personal knowledge of an incident that happened between the parties that was outside the scope of the complaint or any court proceeding. Respondent agreed the conduct amounts to willful misconduct as defined by law.

Respondent's admitted conduct set forth in paragraph 1(A) above violates Canons 21-100 NMRA (1995); 21-200(A) and (B) NMRA (1995); and 21-300(A), (B)(2), (B)(7), and (B)(8) NMRA (2009); and 21-400(A)(1) NMRA 2004 of the Code of Judicial Conduct and constitutes willful misconduct in office.

On or about March 30, 2011, Respondent met *ex parte* or had an *ex parte* proceeding with the defendant, Thomas Chavez, regarding cause number 11-0206, City of Questa vs. Thomas Chavez.

Respondent believed, as stated in his answer to the Notice of Preliminary Investigation filed on December 22, 2011, he was trying to protect both parties, and further believed that neither side would gain any procedural or tactical advantage as a result of the meeting. However, Respondent admits that the hearing amounted to an *ex parte* proceeding in violation of the Code of Judicial Conduct.

Respondent agreed that conducting the hearing was a knowing and intentional act. Respondent agrees the conduct amounts to willful misconduct as defined by law.

Respondent's admitted conduct set forth in paragraph 2 (A) above violates Canons 21-100 NMRA (1995); 21-200(A) and (B) NMRA (1995); 21-300 (A), (B)(2), (B)(7), and (B)(8) NMRA (2009) of the Code of Judicial Conduct and constitutes willful misconduct in office.

On March 25, 2011, Respondent issued an Order to Show Cause in Village of Questa vs. Thomas Chavez, No. 11-0206, ordering him to appear for hearing on March 30, 2011 on a restraining order. A hearing was held on March 30, 2011 and neither Mr. Cisneros nor the Village was present.

Respondent's admitted conduct set forth in paragraph 3(A) above violates Canons 21-100 NMRA (1995); 21-200(A) and (B) NMRA (1995); and 21-300(A), (B)(2), (B)(7), and (B)(8) NMRA (2009) of the Code of Judicial Conduct and constitutes willful misconduct in office.

Respondent admitted, in his response to the Notice of Preliminary Investigation filed on December 22, 2011 with the Judicial Standards Commission, that Respondent did not have jurisdiction to issue a temporary restraining order and that he "felt I had to bend the law to keep peace with this [sic] families. This is a very small town and sometimes I must go out of the box to keep peace."

Respondent's admitted conduct set forth in paragraph 4(A) above violates Canons 21-100 NMRA (1995), 21-200(A) and (B) NMRA (1995); and 21-300(A) and (B)(2), of the Code of Judicial Conduct and constitutes willful misconduct in office.

On or about March 31, 2011, and in response to *ex parte* contacts on 03/30/11 and 03/31/11, in cause number 11-0206, City of Questa v. Tomas (Tommy) Chavez, Respondent backdated a document entitled "temporary restraining order" to March 2, 2011, but the order was not actually filed until March 31, 2011.

Respondent's admitted conduct set forth in paragraph 5(A) above violates Canons 21-100 NMRA (1995); 21-200(A) and (B) NMRA (1995); and 21-300(A), (B)(2), and (B)(7), NMRA (2009) of the Code of Judicial Conduct and constitutes willful misconduct in office.

On or about March 31, 2011, in cause number 11-0206, City of Questa v. Tomas (Tommy) Chavez, Respondent had *ex parte* communication with Julian Cisneros regarding Mr. Cisneros's position on a temporary restraining order, without giving notice or opportunity to be heard to Tomas Chavez, a party in cause number 11-0206.

Respondent's admitted conduct set forth in paragraph 6(A) above violates Canons 21-100 NMRA (1995); 21-200(A) and (B) NMRA 1995; and 21-300(A), (B)(2) and (B)(7) NMRA (2009) of the Code of Judicial Conduct and constitutes willful misconduct in office.

The Commission and Respondent entered into a Stipulation Agreement and Consent to Discipline with the following conditions:

Respondent agrees to accept and the Commission will recommend that the Supreme Court impose the following formal discipline upon the Respondent:

A. Twelve-Month Supervised Probation and Formal Mentorship. Respondent agrees to complete a twelve-month supervised probation and formal mentorship. The Commission shall recommend the probation supervisor/mentor for consideration and appointment by the Supreme Court. The probation supervisor/mentor shall report on the progress and outcome of the mentorship to the Supreme Court and the Commission.

B. Public Censure. Respondent agrees to accept a public censure from the Supreme Court concerning the conduct admitted in this Stipulation Agreement and Consent to Discipline. Public Censures are published in the Bar Bulletin.

C. Training. Respondent agrees to attend all sections and complete the National Judicial College's web seminar entitled Special Considerations for the Rural Court Judge beginning October 1, 2012 and agrees to attend all sections and complete the National Judicial College's course entitled Ethics, Fairness and Security in Your Courtroom and Community to be held October 22-25, 2012 in Reno, Nevada. Respondent shall pay all costs, including travel and tuition, associated with attending and completing these courses at the National Judicial College. Respondent shall provide proof to the Commission that he attended and completed these courses.

The Supreme Court issued an order on June 15, 2012 accepting the Petition to Accept Stipulation Agreement and Consent to Discipline.

This matter was ongoing at the end of FY 2012. Subsequent reportable events will be provided in the Commission's Annual Report for FY 2013.

INFORMAL PROCEEDINGS

PRIVATE LETTERS OF CAUTION. The Commission may dispose of a matter by privately cautioning the judge that the conduct alleged may violate the Code of Judicial Conduct. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. However, the Commission was concerned that if true, the conduct may violate the Code, requiring the matters to be addressed. In FY 2012, the Commission issued private cautionary letters in 3 cases addressing the issues listed below:

1. A judge allegedly failed to comply with personal contractual obligations in a lease and to cooperate with the subsequent judicial proceedings in that matter. The Commission cautioned the judge to be mindful of the possible appearances of bias that may arise from the judge being a party in a landlord/tenant case and to recuse from matters when the judge cannot be fair and impartial. The Commission further cautioned the judge to respect and comply with the law and honor contractual obligations subject to Code of Judicial Conduct.

2. A part-time judge allegedly engaged in coercive communications with representatives of a public body concerning purchasing from the judge's business. The Commission reminded the judge that judges are held to a higher standards of conduct at all times in public and private life. The Commission cautioned the judge to keep judicial office separate and distinct from private business, to avoid impropriety and the

appearance of impropriety by treating everyone the similarly regardless of purchasing from the judge's business, particularly when dealing with persons who have to abide by the Procurement Code, so as not to create the impression that the judge is trying to coerce violation of the Procurement Code.

3. A judge allegedly failed to permit a litigant to make a record for appeal and threatened the litigant with contempt. The Commission cautioned the judge to not allow litigants to engage the judge in any communications that must be on the record. The Commission further suggested procedures for properly handling such situations in the future, so that requirements are met, due process is satisfied, and impropriety, or the appearance thereof, are avoided.

INFORMAL REMEDIAL MEASURES. The Commission may elect to dispose of matters informally by referring judges for remedial measures or conditions, which may include, but not necessarily be limited to, mentorship, counseling or other assistance. In the mentor program, the Commission selects an experienced judge who is asked to structure an informal program to meet with the subject judge, address the Commission's issues of concern, and provide the judge being mentored with any needed help and advice. Participation in the programs is accomplished through stipulation. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2012, 1 inquiry was disposed informally through remedial measures, which is discussed below.

1. A judge allegedly failed to dispose of all judicial matters promptly and efficiently, excessively delayed in rendering a decision in a timely manner, and did not rule on motions promptly and efficiently. The judge completed an informal mentorship.

INFORMAL STIPULATIONS. The Commission may enter into stipulation agreements in confidential matters (not filed in the Supreme Court) concerning various matters. The Commission makes no findings of wrongdoing, and these dispositions are not discipline. In FY 2012, the Commission entered into 1 confidential stipulation with a judge as discussed below:

1. At a hearing, a judge allegedly failed to be patient, dignified and courteous with a litigant, and improperly refused to allow counsel to ask a question. In consideration of a number a factors, and with the judge's consent, the Commission issued a Order for Conditional Informal Disposition of the inquiry, wherein the judge agreed to no longer preside over domestic relations or juvenile matters.

CURRENT OR FORMER JUDGES WITH ONGOING DUTIES TO COMPLY WITH SUPREME COURT-ORDERED PROBATION, MONITORING, OR OTHER CONDITIONS

MATTER OF HON. JOHN W. "BUDDY" SANCHEZ

Valencia County Magistrate Court

JSC Inquiry No. 2005-031

Supreme Court Docket No. 25,281

Pursuant to the Supreme Court's order of November 20, 2008, the current monitoring and compliance requires screening of Judge Sanchez's serum ammonia levels, which the Court directed in its March 8, 2007 order may be ordered and is monitored by the director of the Administrative Office of the Courts ("AOC") with notice to the Commission. Random drug and alcohol screening was discontinued by the Supreme Court's November 20, 2008 order, upon Judge Sanchez's motion that was granted in part.

MATTER OF HON. THERESA GOMEZ

Bernalillo County Metropolitan Court

JSC Inquiry No. 2006-128

Supreme Court Docket No. 30,549

Pursuant to the October 24, 2007 order of the Supreme Court, former judge Theresa Gomez is obligated to comply with the terms of a duly executed promissory note, which include monthly installment payments to repay \$17,000.00 constituting unpaid rent due to the Region III State Housing Authority, its successor, agent, or assignee.

ALL DISCIPLINARY CASES

Matter of Martinez, 99 N.M. 198, 656 P.2d 861 (1982).

In re Romero, 100 N.M. 180, 668 P.2d 296 (1983).

Matter of Terry, 101 N.M. 360, 683 P.2d 42 (1984).

In re Lucero, 102 N.M. 745, 700 P.2d 648 (1985).

Inquiry Concerning Perea, 103 N.M. 617, 711 P.2d 894 (1986).

Matter of Rainaldi, 104 N.M. 762, 727 P.2d 70 (1986).

Matter of Atencio, 106 N.M. 334, 742 P.2d 1039 (1987).

Matter of Garcia, 108 N.M. 411, 773 P.2d 356 (1989).

Matter of Castellano, 119 N.M. 140, 889 P.2d 175 (1995).

Matter of Ramirez, 2006-NMSC-021, 139 N.M. 529, 135 P.3d 230.

Matter of McBee, 2006-NMSC-024, 139 N.M. 482, 134 P.3d 769.

State v. Maestas, 2007-NMSC-001, 140 N.M. 836, 149 P.3d 933.

Matter of Garza, 2007-NMSC-028, 141 N.M. 831, 161 P.3d 876.

Matter of Locatelli, 2007-NMSC-029, 141 N.M. 755, 161 P.3d 252.

Matter of Vincent, 2007-NMSC-056, 143 N.M. 56, 172 P.3d 605.

Matter of Griego, 2008-NMSC-020, 143 N.M. 698, 181 P.3d 690.

Matter of Rodella, 2008-NMSC-050, 144 N.M. 617, 190 P.3d 338.

Matter of Schwartz, 2011-NMSC-019, 149 N.M. 721, 255 P.3d 299.

OTHER RELATED STATE CASES

Sangre de Cristo Development Corp., Inc. v. City of Santa Fe, 84 N.M. 343, 503 P.2d 323 (1972).

Cooper v. Albuquerque City Commission, 85 N.M. 786, 518 P.2d 275 (1974).

State ex rel. Rivera v. Conway, 106 N.M. 260, 741 P.2d 1381 (1987).

Southwest Community Health Services v. Smith, 107 N.M. 196, 755 P.2d 40 (1988).

State ex rel. New Mexico Judicial Standards Com'n v. Espinosa, 2003-NMSC-017, 134 N.M. 59, 73 P.3d 197.

Concha v. Sanchez, 2011-NMSC-031, 150 N.M. 268, 258 P.3d 1060 .

STATE CASE REGARDING COMMISSION SUBPOENAS

State ex rel. New Mexico Judicial Standards Com'n v. Rivera et al., No. 29,239, slip op. (N.M. 2005).



EXPENDITURES & COST REIMBURSEMENT

As an independent agency of the State, the Commission is funded through a general appropriation each year by the New Mexico Legislature. The Commission's appropriation is separate from the appropriations made to any other state agency or court. At the end of each fiscal year, unencumbered/uncosted funds revert to the State's general fund.

For FY 2012, the State Legislature appropriated \$706,900.00 to the Commission from the general fund for operations, investigation, and prosecution of judicial misconduct.

In FY 2012, the Commission's expenditures totaled \$705,230.69 from the General Fund. Summaries by category of the Commission's expenditures are provided herein for each fund.

FY 2012 EXPENDITURES FROM THE GENERAL FUND

DESCRIPTION	AMOUNT	PERCENTAGE
Employee Compensation	\$419,314.11	59.4%
Employee Benefits & Taxes	137,293.67	19.5%
Employee Training & Licensing	8,228.11	1.2%
Commission Travel	4,579.25	0.6%
Investigation & Prosecution*	3,957.29	0.6%
Contractual Services	21,023.53	3.0%
Rent, Telecom, IT & Overhead	84,344.31	12.0%
Equipment, Supplies & Postage	26,490.42	3.7%
TOTAL	\$705,230.69	100%

* See additional \$6,301.83 in investigation and prosecution expenditures from the Commission's Investigation and Trial Cost Reimbursement Fund, which are detailed in the next table on the following page.

INVESTIGATION & TRIAL COST REIMBURSEMENT FUND

In the 2010 regular session, the Commission obtained a new, non-reverting fund granted by the Legislature that commenced in FY 2011 into which the Commission can deposit the investigation and trial cost reimbursements collected from judges, most often by order of the Supreme Court. The Legislature granted the authority for the Commission to collect up to \$25,000.00 per year, expend, and not revert the balance in this fund at the end of each fiscal year. The non-reverting character of the fund was not continued by the Legislature in FY 2012.

In FY 2011 the Commission collected \$2,115.16 in investigation and trial cost reimbursements from judges, which were detailed in the FY 2011 Annual Report. In FY 2012 the Commission collected \$5,732.05 in these reimbursements from judges as follows: \$5,013.40 from Second Judicial District Court Judge Robert Schwartz (which originated by Supreme Court Order issued in FY 2011); and \$718.65 from former Dona Ana County Magistrate Court Judge Olivia N. Garcia.

DESCRIPTION	FY 2012 COSTS	FY 2012 FINES	FY2012 EXPENDITURES	BALANCE
Balance Forward from FY 2011				\$ 2,115.16
Hon. Robert Schwartz, Second Judicial District Judge	\$ 5,013.40			7,128.56
Hon. Olivia Garcia, former Dona Ana County Magistrate Judge	718.65			7,847.21
FY 2012 Expenditures for Investigation & Prosecution			(6,301.83)	1,545.38
TOTALS	\$ 5,732.05	\$ 0.00	\$ (6,301.83)	\$ 1,545.38

FINES AND COST REIMBURSEMENT DISTINGUISHED

The Supreme Court may impose fines against judges upon recommendation by the Commission. Fines are paid to the State of New Mexico and deposited with the Supreme Court. Fines typically are deposited in the general fund, unless otherwise ordered by the Supreme Court. Costs may be assessed by the Supreme Court or may be reimbursed on stipulation with the respondent judge. Costs are paid to the State of New Mexico and deposited into the Commission's cost reimbursement fund.

OUTSTANDING DEBT(S) TO COMMISSION

In FY 2008 removed Bernalillo County Metropolitan Court Judge J. Wayne Griego was ordered by the Supreme Court to reimburse the Commission \$6,704.41 in costs. With annual interest of \$536.35 that accrued through FY 2012, the total amount due from Mr. Griego is \$8,313.46. Mr. Griego has not made any payment to the Commission and his debt remains outstanding. The Commission recorded judgment liens with county clerks. Due to the recorded judgment liens, in 2011 the Commission was named a party (along with federal and state taxing authorities) to a foreclosure lawsuit brought against Mr. Griego and his wife by their mortgage holder. That suit was dismissed for lack of prosecution by the plaintiff bank.

FY 2012 GENERAL FUND APPROPRIATION COMPARED TO GENERAL FUND EXPENDITURES

FY 2012 Approved Budget	\$ 706,900.00	
Total FY 2012 Expenditures		\$ (705,230.69)
FY 2012 Reversion to General Fund		(1,669.31)
Total Expenditures and Reversion		\$ (706,900.00)

Note: Reversion represents 0.2% of the Commission's total General Fund appropriation.

AGENCY 10-YEAR GENERAL FUND FUNDING PROFILE

FISCAL YEAR	FUNDING	EXPENDITURES	REVERSION FROM GENERAL FUND	REVERSION FROM COST REIMBURSEMENTS	REVERSION AS % OF FUNDING
2002	\$362,700.00	\$297,322.00	\$65,378.00	\$0.00	18%
2003	376,200.00	296,732.00	79,468.00	\$0.00	21%
2004	385,079.00	357,049.00	28,030.00	\$0.00	7%
2005	529,352.00	515,810.65	8,541.35	\$5,000.00	3%
2006	650,816.00	650,253.11	0.00	\$562.89	0%
2007	688,853.00	688,812.57	40.43	\$0.00	0%
2008	819,548.00	803,295.93	0.00	\$16,252.07	2%
2009	842,973.00	832,600.37	6,799.01	\$3,573.62	1%
2010	780,002.40	749,752.96	22,047.04	\$8,202.40	4%
2011	731,300.00	717,230.17	14,069.83	\$0.00	2%
2012	706,900.00	705,230.69	1,669.31	0.00	0.2%

