

# Executive Director's Message

by Karen A. Gould



## Where Do Things Stand with Lawyer Discipline in Virginia?

THOSE OF YOU who have never been involved in the disciplinary system may not be aware that the VSB receives approximately 3,000 complaints a year, many of which do not state a complaint against Virginia's lawyers. Here is a snapshot look at what happened to the 3,000+ complaints received between July 1, 2016 and June 30, 2017:

- 3,304 complaints were received in FY 2017, up 4.4% from 3,162 in FY 2016;
- Of those, the VSB's Intake Department resolved **2,021** (61%) summarily with **no action taken on the basis that the complaints did not implicate the Rules of Professional Conduct**;
- Another 749 (22.7%) alleged minor acts of misconduct that Intake resolved through its proactive process without creating a disciplinary record;
- Intake formally opened and assigned 516 (15.6%) to bar disciplinary counsel for investigation.

Of the 516 complaints assigned to bar disciplinary counsel, listed below are the various areas of law of the complaints:

125	Criminal Practice
82	Family Law
34	Personal Injury Practice
30	Civil Litigation
29	Estate Planning and Administration
24	Trust Account Overdrafts
21	Bankruptcy
18	Real Estate Practice

16	Immigration
8	Traffic Offenses
7	Collections
6	Guardianship/GAL & Legal/Medical Malpractice
5	Prosecutors
4	Foreclosures
3	Landlord/Tenant, Workers Comp & Patent/Trademark
48	Miscellaneous matters in 22 other areas of law

Carried forward from FY 2016 were 348 cases, for a total of 864 cases on the disciplinary docket during FY 2017. Of those cases, 204 were dismissed at the preliminary investigation phase, 142 were dismissed by district committees, nine were dismissed by the Disciplinary Board, and one was dismissed by a three-judge panel of circuit court judges. Of the remainder that were adjudicated in some fashion, 148 cases resulted in sanctions. Therefore, out of the 864 cases on the docket during FY 2017, 512 were resolved, leaving 352 carried forward to FY 2018.

To date in FY 2018, 2,157 complaints have been received by the VSB between 7/1/2017 to 3/1/2018. Of these, the Intake Department resolved 1,366 (63.3%) summarily with no action taken on the basis that the complaints did not implicate the Rules of Professional Conduct. Another 448 (20.8%) alleged minor acts of misconduct were resolved by Intake through its proactive process without creating a disciplinary record. Intake formally opened 343 complaints (15.9%) and

assigned them to bar disciplinary counsel for investigation.

Among clients who file ethical complaints with the bar are those clients who are dissatisfied for other reasons with the services they received and believe the VSB disciplinary system offers redress by reprimanding, suspending, or disbaring the attorney. Often, there are increasingly strident demands by these former clients that their complaints be prosecuted regardless of whether they state a violation of the Rules of Professional Conduct. Yet, the information provided to the public by the VSB on how to file a misconduct inquiry about a lawyer specifically states that:

*The VSB recognizes that people have many kinds of dealings with lawyers, but not all those situations are subject to review through the bar's disciplinary process. Some problems with lawyers will need to be addressed in other ways. For example, the VSB will not open disciplinary cases on:*

- *Inquiries about a lawyer's fee.*
- *Dissatisfaction with the quality of a lawyer's advice or strategy.*
- *Rude behavior by an attorney.*
- *Inquiries about judges in their judicial capacity.*

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- *Inquiries that lawyers acting as guardians ad litem or Commissioners in Chancery have taken positions with which you disagree.*
- *Allegations that a guilty plea in a criminal case was not voluntary, unless the guilty plea has been overturned by a court.*
- *Allegations that a prosecutor prosecuted the wrong person or failed to prosecute a case.*
- *Civil disputes with a lawyer, such as the lawyer's failure to pay a bill to someone who has provided goods or services directly to the lawyer, unless it appears that the lawyer improperly handled client funds.*

Not every complaint against a lawyer has a remedy with the Virginia State Bar. In order for such a remedy to be available to a client, a specific action has to be linked to a violation of the Rules of Professional Conduct.

## Fee Dispute Resolution Program



Now that your work is done, do you find yourself in a dispute with your client over fees and costs? The Virginia State Bar offers another way to settle those disputes, without resorting to costly litigation.

The Special Committee on the Resolution of Fee Disputes oversees the Fee Dispute Resolution Program to provide an avenue, other than litigation, for the expeditious and satisfactory resolution of fee disputes between attorneys and their clients through mediation and uniform arbitration proceedings and works to foster trust and communication among attorneys and clients.

For information on the program, go to our website at [www.vsb.org/site/about/resolution-of-fee-disputes](http://www.vsb.org/site/about/resolution-of-fee-disputes).