

Office of Professional Conduct Statistics on Complaint Received 2007-2008

The Office of Professional Conduct (“OPC”) collects and categorizes statistics every fiscal year which list the types of complaints received and the sources of those complaints. This information is included in an annual report to the Utah Supreme Court and is provided below to inform and educate lawyers about potential problem areas and to suggest renewed attention to the improvement of practices and conduct, rededication to high ethical standards and renewed commitment to professionalism and client services.

For informal complaints reviewed in fiscal year 2007-2008, in approximate percentages, the cases resulted in violations of the following Rules of Professional Conduct:

<u>Percentage</u>	<u>Rule</u>	
25.0%	1.4	(Communication)
10.1%	1.3	(Diligence)
7.7%	1.16	(Declining or Terminating Representation)
6.9%	8.1	(Bar Admission and Disciplinary Matters)
6.5%	1.5	(Fees)
6.5%	1.15	(Safekeeping Property)
4.4%	8.4(c)	(Misconduct – Deceit, Fraud, Misrepresentation)
3.6%	3.2	(Expediting Litigation)
3.6%	8.4(d)	(Misconduct Prejudicial to the Administration of Justice)
3.6%	5.3	(Responsibilities Regarding Nonlawyer Assistants)
2.4%	8.4(b)	(Misconduct – Criminal Act)
2.0%	1.2	(Scope of Representation and Allocation of Authority Between Client and Lawyer)
2.0%	4.1	(Truthfulness in Statements to Others)
1.6%	1.1	(Competence)
1.6%	3.3	(Candor Toward the Tribunal)
1.6%	3.4	(Fairness to Opposing Party and Counsel)
1.2%	4.4	(Respect for Rights of Third Persons)
1.2%	1.8	(Conflict of Interest: Current Clients: Specific Rules)
1.2%	1.7	(Conflict of Interest: Current Clients)
1.2%	5.5	(Unauthorized Practice of Law; Multijurisdictional Practice of Law)
.08%	5.1	(Responsibilities of Partners, Managers, and Supervisory Lawyers)
.08%	1.6	(Confidentiality of Information)
.04%	3.1	(Meritorious Claims and Contentions)
.04%	3.4	(Fairness of Opposing Party and Counsel)
.04%	7.4	(Communication of Fields of Practice)
.04%	8.2	(Judicial Officials)
.04%	1.9	(Duties to Former Clients)
.04%	3.7	(Lawyer as Witness)
.04%	4.2	(Communication with Persons Represented by Counsel)
.04%	7.1	(Communications Concerning a Lawyer’s Services)
.04%	7.3	(Direct Contact with Prospective Clients)
.04%	7.5	(Firm Names and Letterheads)
.04%	8.4(e)	(Misconduct – Improperly Influencing a Government Agency or Official)

The OPC's impression is that:

- Violations of **Rule 1.1 (Competence)** commonly derive from attorneys missing court appearances;
- Violations of **Rule 1.5 (Fees)** commonly arise from attorneys collecting fees without performing meaningful work;
- Violations of **Rule 1.15 (Safekeeping Property)** often arise from attorneys failing to promptly provide an accounting of how fees were used;
- Violations of **Rule 1.16 (Declining or Terminating Representation)** commonly result from attorneys withholding the client file upon termination of the representation; and
- Violations of **Rule 8.1 (b) (Bar Admission and Disciplinary Matters)** usually are based upon attorneys failing to respond to the OPC's lawful requests for information in the course of disciplinary investigations.

Accordingly, the OPC's CLE presentations often focus on helping practitioners avoid these particular problems.

For informal complaints reviewed in fiscal year 2007-2008, in approximate percentages, the sources were as follows:

<u>Percentage</u>	<u>Source</u>
32.0%	Current Client
21.2%	Former Client
20.2%	Opposing Party
8.7%	Financial Institution
5.2%	Non-Lawyer
4.6%	Family Member of Client or Former Client
3.4%	Opposing Counsel
1.7%	OPC
1.1%	Lawyer – Not Opposing Counsel
0.9%	Law Enforcement/Government Agency
0.7%	Judiciary
0.1%	Other Outside Disciplinary Source