

**ANNUAL REPORT OF THE  
ATTORNEY REGULATION ADVISORY  
COMMITTEE TO THE  
ARIZONA SUPREME COURT**

**APRIL 2023**

**ARIZONA SUPREME COURT  
ATTORNEY REGULATION ADVISORY COMMITTEE (ARC)**

**Committee Member List As of December 2022**

**Hon. Ann A. Scott Timmer, *Chair***  
Vice Chief Justice, Arizona Supreme Court

**Hon. Margaret Downie, *Vice Chair***  
Presiding Disciplinary Judge

**Hon. Lawrence F. Winthrop (*ret.*)**  
Attorney Member

**Hon. William J. O’Neil (*ret.*)**  
Attorney Member

**Whitney Cunningham**  
Attorney Member

**George Riemer**  
Attorney Member

**Michael Donovan**  
Attorney Member

**Lisa Panahi**  
Attorney Member

**Nancy Greenlee**  
Attorney Member

**Maret Vessella**  
Attorney Member

**Evelyn R. Hernandez**  
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**Melvin Hall**  
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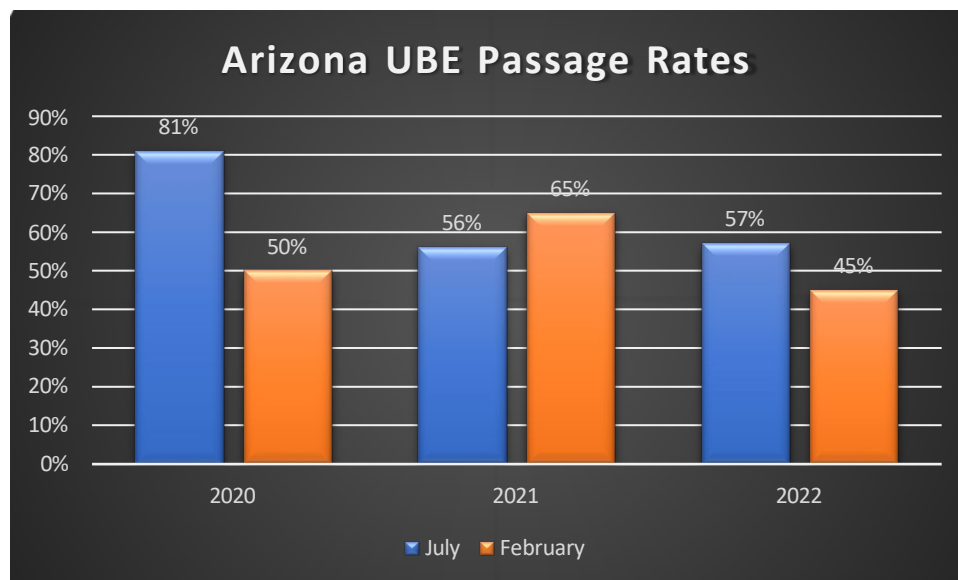
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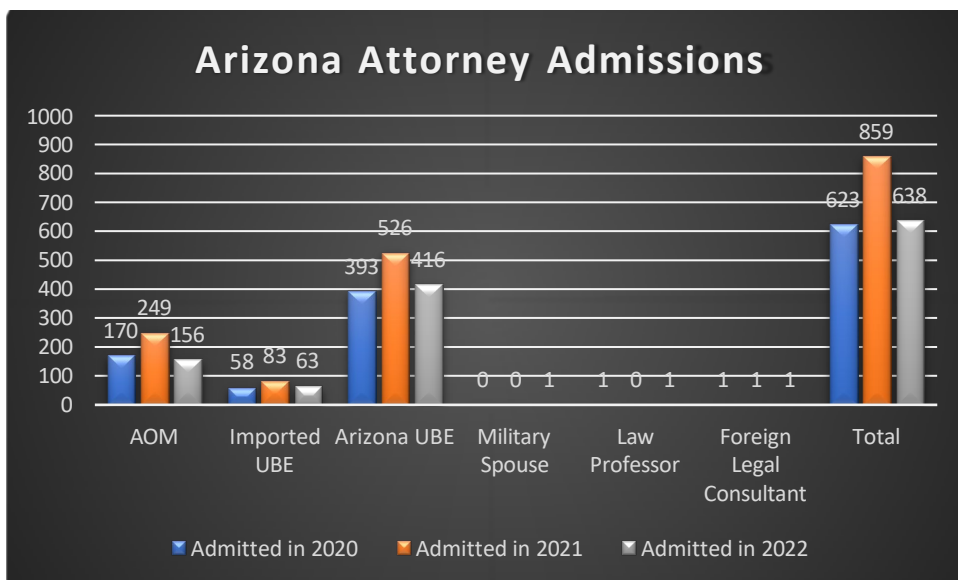
# ATTORNEY REGULATION ADVISORY COMMITTEE 2022 ANNUAL REPORT

The Attorney Regulation Advisory Committee (“ARC”) was established by the Supreme Court of Arizona to periodically review the entire attorney admission and discipline system for the Court and make recommendations for any further needed changes (Administrative Order No. 2011-44). ARC’s purpose is to review the rules governing attorney examination, admissions, reinstatement, and the disability and disciplinary processes and make recommendations regarding these rules “to reinforce lawyer competency and professionalism and strengthen the Supreme Court’s oversight of the regulation and practice of law in this state.” The Court directed ARC to submit an annual report each year by April 30. That report “shall contain case statistics on the processing of attorney admission and discipline cases and recommendations on specific issues addressed by the Committee.” This report is respectfully submitted for the 2022 calendar year.

## I. The Examination / Admission Process and Statistics

Arizona adopted the Uniform Bar Examination (“UBE”) in 2012, with testing opportunities twice a year in February and July. A total of 416 applicants passed the Arizona Uniform Bar Examination in 2022, yielding an overall pass rate of 57%. A total of 94 applicants passed the Uniform Bar Examination in February, yielding an overall pass rate of 45%. A total of 322 applicants passed the Uniform Bar Examination in July, yielding an overall pass rate of 62%. In 2022, 586 new attorneys were admitted to practice: 156 by admission on motion, 63 via imported UBE scores earned elsewhere, 1 law professor, 1 military spouse admission, 1 foreign legal consultant and 364 by bar exam.





In 2022, a total of 158 applicants who tested in Arizona requested their UBE scores be transferred to different jurisdictions, most frequently to: New York (25); Texas (22); Colorado (14); Washington (13); and Illinois (9).

A total of 228 UBE applicants requested their scores be transferred into Arizona. Jurisdictions with the most frequently imported scores were from: New Mexico (31), Texas (30); District of Columbia (24); Colorado (23); and New York (17).

### Character and Fitness

Each applicant for admission must submit a detailed Character and Fitness Report. The Committee on Character and Fitness is charged with reviewing and, as necessary, investigating issues raised by these reports. As part of that process, and in compliance with the 2015 guidelines established by the Arizona Supreme Court, the Committee held a total of 46 informal proceedings in 2022, with the following results:

Informal Inquiries in 2022	
Outcomes	Number of Inquiries
Regular Admission	36
Conditional Admission	1
Referred for Formal Hearing	9
Withdrew Application	0
<b>Total</b>	<b>46</b>

Nineteen investigations in 2022 resulted in formal proceedings, with the following results:

Hearings in 2022	
Outcomes	Number of Hearings
Regular Admission	11
Conditional Admission	2
Denied	5

Withdrew Application	1
Conditional Admission Revocation, Extensions, or Modification	0
<b>Total</b>	<b>19</b>

In 2022, the Chairs of the Character and Fitness and Examinations Committees responded to petitions for review regarding the following issues:

<b>Committee on Character and Fitness Response to Petitions for Review</b>		
<b>Issues</b>	<b>Requests</b>	<b>Action by Supreme Court</b>
Waiver of ABA JD Requirement	1	1 Denied
Motions to Extend Five-Year Requirement for Admission	4	4 Granted
Waiver AOM Practice Requirement	1	1 Denied
Petition of Committee Denial Decision	3	3 Denied
AOM eligibility	4	1 Granted /3 Denied
Waiver of Good Standing Requirement	1	1 Denied
<b>Total</b>	<b>14</b>	<b>5 Granted/9 Denied</b>

<b>Committee on Examinations Response to Petitions for Review</b>		
<b>Issues</b>	<b>Requests</b>	<b>Action by Supreme Court</b>
Accommodations	1	1 Denied
Extraordinary Circumstance, Overturn Failing Exam Score	6	6 Denied
Permission to Write	0	0
Waiver of ABA JD Requirement	2	1 Granted /1 Denied
<b>Total</b>	<b>9</b>	<b>1 Granted/8 Denied</b>

### **Early Examination**

In 2012, the Court approved a pilot program of early testing for law students in their last semester of law school, provided the semester was structured to allow for study and student engagement. The Supreme Court officially amended Rule 34 to allow early testing as a permanent admission option effective January 1, 2017. Applicants from any law school, certifying the student qualifies as an early tester may apply to sit as a third-year student. Of the two Arizona law schools, the University of Arizona consistently has the highest number of applicants apply as early testers. The overall statistics for 2022 are indicated in the chart below.

<b>EARLY EXAM</b>	<b>Total Participants</b>	<b>Passed Exam</b>	<b>Pass Rate</b>
<b>February 2022</b>	20	17	85%
University of Arizona	13	12	92%
Arizona State University	7	5	71%
Non-Arizona Law School	0	N/A	N/A
<b>July 2022</b>	0	N/A	N/A
University of Arizona	0	N/A	N/A
Arizona State University	0	N/A	N/A
Non-Arizona Law School	0	N/A	N/A

Early tester applicants are eligible to sit for the exam; however, they are not eligible for admission in accordance with Rule 34(b)(2)(F) until satisfactory proof of an award of juris doctor degree is received by the Committee on Character and Fitness. In addition to earning the minimum passing score on the bar exam, early testers must satisfy the character and fitness requirement to be admitted to the practice of law.

February UBE scores are released the second week in May, and many law schools conferred degrees after score release and therefore no February 2022, early testers were recommended for admission at the time of score release. Of the twenty early testers who sat for the February 2022 bar exam, seventeen achieved passing scores. Eight of the twenty early testers filed a character and fitness application prior to the February 2022 bar exam and three others filed a character and fitness application after the February 2022 bar exam. After evidence of graduation was received and completion of other requirements was confirmed, nine of the seventeen successful early testers were admitted to practice by the end of 2022. Three of the twenty early testers who passed the February 2022 bar exam have not yet filed a character and fitness application to complete admission.

## **II. Lawyer Regulation**

Administrative Order 2011-44 directs that the annual ARC report shall contain case statistics on the processing of attorney regulation cases.

### **Statistical Summary**

The following comparative statistics are provided by the State Bar of Arizona, the Attorney Discipline Probable Cause Committee (“ADPCC”) and the Presiding Disciplinary Judge (“PDJ”).

The State Bar, ADPCC and the PDJ have distinct responsibilities and capture data in slightly different ways to best reflect the performance of those responsibilities. The differences in how data have been captured are described in footnotes. The statistics provide a snapshot of the regulatory process, from intake and processing of complaints, investigation and resolution, either through closure, consent, presentation to and disposition by the ADPCC, and through the formal complaint process with orders issued by the PDJ, and review by the Arizona Supreme Court.

<b>Number of Attorneys Licensed to Practice</b>		
<b>2020</b>	<b>2021</b>	<b>2022</b>

24,977	25,344	25,494
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<b>Number of Legal Paraprofessionals</b>	<b>2021</b>	<b>2022</b>
Admitted in the year	4	24
Licensed as of 12/31:	4	28

<b>Summary of Regulatory Action Taken<sup>1</sup></b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Disbarred	8	9	8
Suspended	36	35	23
Reprimanded	24	27	25
Number of Informal Sanctions	24	35	33
Number of Diversions <sup>2</sup>	122	111	110
Number of Dismissals with Comment	191	254	171

### **Intake and Investigative Process**

The Intake process is designed to achieve two specific goals: (1) resolve the greatest number of inquiries/charges at the earliest stage of the process, and (2) expeditiously move the most serious charges of misconduct into the investigation phase.

Complainants are encouraged to talk with an intake lawyer before submitting a written charge. This approach has personalized the process and has allowed for a better and timelier evaluation of the complainant's concerns. Many charges received by the State Bar's Lawyer Regulation Department represent allegations of low-level misconduct (such as lack of communication with the client) that can be appropriately resolved by means of providing instruction to the lawyer or directing the lawyer to resources that will quickly resolve the issue.

The system provides for immediate outreach to complainants and lawyers, which provides opportunities for lawyers to resolve the issue and complainants to receive an expeditious resolution.

In all cases where the State Bar decides not to proceed to investigation, the rules require an explanation to complainants regarding that decision.

The charges that are not resolved by the State Bar in Intake are moved on to investigation. The process of determining what charges are referred for investigation usually includes securing a written statement from the complainant and often includes gathering additional information.

<sup>1</sup> This chart represents all final orders through appeal as of December 31 of each respective year.

<sup>2</sup> This includes all diversion agreements entered by the State Bar and orders issued by the Attorney Discipline Probable Cause Committee

<b>Intake and Investigation</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Total charges received	2,285	2,299	2,421
Number of charges referred to investigation	403	464	383
Number of lawyers investigated relative to the charges referred	305	349	292
Percentage of complaints resolved in Intake (closed)	70%	75%	78%
Average days to resolve complaints in Intake (closed)	19	19	21
Average days to refer from Intake to Investigation	23	21	23
Average days for investigation	202	179	203

## **Unauthorized Practice of Law**

### **Intake and Investigative Process**

Bar counsel/Unauthorized Practice of Law Counsel initially reviews all charges alleging that a disbarred lawyer or nonlawyer has engaged in the unauthorized practice of law in Arizona. If the allegations taken as true do not constitute the unauthorized practice of law, counsel may request additional information or may dismiss the charge.

If the allegations taken as true would constitute the unauthorized practice of law, counsel will conduct an investigation. The respondent is provided with a copy of the allegations and directed to submit a written response. At the same time, counsel may obtain additional information or documents from other sources. When the investigation has been completed, the charge may be dismissed, a consent to cease and desist may be filed, or a complaint may be filed in superior court.

### **Formal Proceedings**

Complaints alleging the unauthorized practice of law are filed in the superior court for the county in which the respondent has engaged in the unauthorized practice of law. The Rules of Civil Procedure apply in superior court proceedings, except as otherwise designated in the Supreme Court rules. Bench trials are held, as respondents are not entitled to a jury trial. Agreements to cease and desist (which may include other sanctions) must be approved by the superior court. Default proceedings are handled by a superior court judge or commissioner, depending on the county in which the case was filed.

Willful disobedience or violation of a court order requiring the individual to do or forbear an act connected with the unauthorized practice of law may result in the filing of a petition for contempt in superior court.



## Appeals

A superior court's final order or judgment may be appealed by either party to the Court of Appeals. Following the entry of a decision or opinion by the Court of Appeals, either party may file a petition for review with the Arizona Supreme Court.

## Sanctions or Outcomes for Formal Matters

In 2022, cases resolved through superior court included any combination of the following sanctions: cease and desist order, injunction, finding of civil contempt, restitution, or imposition of the costs and expenses of the proceeding. Beginning in 2021, in addition to the aforementioned sanctions, a civil penalty up to \$25,000 may also be imposed.

<b>SBA UPL Data</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Total UPL charges received	58	53	41
Number of UPL charges referred to investigation	32	27	23
Percentage of UPL charges resolved in Intake (closed)	38%	47%	39%
Average days to resolve UPL charges in Intake (closed)	15	15	24
Average days to refer from Intake to Investigation	13	14	16

<b>Formal UPL Complaints</b>	8	1	7
<b>Dispositions</b>			
Cease and Desist Order	3	1	2
Cease and Desist Order with Restitution	3	2	4
Dismissed	2	1	0
Pending	3	0	1
<b>Contempt Proceedings</b>	3	0	0
<b>Dispositions</b>			
Civil Contempt	1	0	0

Civil Contempt and Fines	1	0	0
Civil Contempt, Restitution, and Fines	1	0	0

### Attorney Discipline Probable Cause Committee

The Attorney Discipline Probable Cause Committee (ADPCC) is a permanent committee of the Supreme Court (*See* Rule 50.) The ADPCC has three public members and six attorney members, and it meets monthly to review the State Bar’s recommendations on charges. This committee is the gatekeeper for the discipline system, and it benefits from the public members’ participation and their insight. After deliberation, the ADPCC may direct bar counsel to conduct further investigation, dismiss the allegations, or order one or more of the following: diversion, admonition, probation, restitution, and assessment of costs and expenses.

Additionally, if the committee believes the ethics violation(s) in question could justify the imposition of a reprimand, suspension or disbarment, it can authorize the State Bar to file a formal complaint with the Presiding Disciplinary Judge.

Before each monthly meeting, the State Bar provides each respondent with a written report of investigation that includes the State Bar’s recommendation on the case. Pursuant to Rule 55(b)(2)(B), the State Bar also informs the complainant of the right to submit a written response and objection to the State Bar’s recommendation.

The ADPCC meetings are confidential, and are not open to respondents, complainants or the public. At each meeting, the State Bar presents its cases orally and ADPCC members may ask questions, request additional facts, challenge the State Bar’s recommendations or offer their own recommendations. In 2021, the ADPCC rejected or modified the State Bar’s recommendation in 4 cases. In 3 cases the ADPCC increased the severity of the recommended sanction or disposition. In 1 case it decreased the State Bar’s recommended sanction or disposition.

The ADPCC organizes its statistics in a slightly different format from that of the State Bar, tracking the number and types of orders issued:

<b>Number of Matters<sup>3</sup> the ADPCC Reviewed and Number of Orders Issued</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Matters Reviewed	185	181	166
Number of Probable Cause Orders Authorizing a Formal Complaint	90 <sup>4</sup>	87	91
Number of Orders of Admonition	24	34	27
Number of Orders of Restitution	4	8	6
Number of Orders of Diversion	17	4	7

<sup>3</sup> A “matter” is defined as a State Bar action that results in an ADPCC order and may involve multiple charges. The statistics in this chart are calculated on a calendar year.

<sup>4</sup> This includes four Probable Cause Orders from Independent Bar Counsel.

<b>Number of Matters<sup>5</sup> the ADPCC Reviewed and Number of Orders Issued</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Denial of Appeals from State Bar Orders of Dismissal	25 <sup>6</sup>	24	13
Granted Appeals from State Bar Orders of Dismissal	0	1	3
ADPCC increased recommended sanctions or disposition (by charge)	5	3	1
ADPCC decreased recommended sanctions or dispositions (by charge) <sup>7</sup>	6	1	7

### **Contested ADPCC Orders and Disposition**

Pursuant to Rule 55(c)(4)(B), attorneys receiving an order of diversion, stay, probation, restitution, admonition or assessment of costs and expenses may contest that order by demanding formal proceedings be instituted. In that event, the ADPCC order is vacated, and the State Bar files a formal complaint with the PDJ. In 2022, the following seven orders were appealed and converted to formal cases, with the following results:

21-2282	Contested Admonition with Probation: <b>Result – Consent agreement</b>
21-2455	Contested Admonition; <b>Pending</b>
20-1719	Contested Admonition with Probation: <b>Result – Consent agreement</b>
21-2508	Contested Admonition with Probation: <b>Result – Consent agreement</b>
21-2117	Contested Diversion; <b>Pending</b>
21-2118	Contested Diversion; <b>Pending</b>
22-1896	Contested Admonition with Probation; <b>Pending</b>

### **Formal Cases**

### **III. Office of the Presiding Disciplinary Judge**

The Presiding Disciplinary Judge presides over attorney regulation proceedings, including transfers to and from disability status, discipline, and reinstatement matters. The PDJ individually rules on interim suspension requests, agreements for discipline by consent, probation violations, reciprocals, petitions for transfer to disability inactive status, Rule 64 affidavit-based requests for reinstatement, contempt matters, and requests for protective orders.

<sup>5</sup> A “matter” is defined as a State Bar action that results in an ADPCC order and may involve multiple charges. The statistics in this chart are calculated on a calendar year.

<sup>6</sup> This includes three Denial of Appeals from Independent Bar Counsel.

<sup>7</sup> Does not include dismissal appeals that were granted. Those matters are reported under “Granted Appeals.”

Other matters are decided by a hearing panel. The Chief Justice appoints a pool of volunteer attorney and public members to serve on hearing panels. Each three-member hearing panel is comprised of the Presiding Disciplinary Judge, one volunteer attorney member and one volunteer public member assigned by the Disciplinary Clerk. The hearing panels have statewide jurisdiction over any matters designated by the Court. In those matters, the hearing panels prepare findings of fact and conclusions of law. In discipline proceedings, the hearing panel issues a final judgment, subject to appeal to the Court. In reinstatement matters, the hearing panel makes a report and recommendation to the Court. In transfers to disability, the PDJ issues an appealable order regarding the request for transfer except when an agreement is entered. The disposition of the matter by the Court establishes the finality of each report and recommendation.

The Office of the Presiding Disciplinary Judge is comprised of three individuals: Judge Margaret Downie; Paralegal, Michele Smith; and Disciplinary Clerk, Susan P. Hunt. In 2022, Jan Jones joined the Office as Michele Smith retired. The decisions of the PDJ and the hearing panels can be found online at <http://www.azcourts.gov/pdj>. However, in disability cases, only orders of transfer to or from disability are public under Rule 63(e).

Under Rule 46(h)(11), the Disciplinary Clerk is designated the custodian of the record in all discipline, disability, and reinstatement proceedings before the PDJ and hearing panels. Under Supreme Court Rule 51, the PDJ’s authority includes imposing discipline on an attorney, alternative business structure or legal paraprofessional; transferring an attorney or legal paraprofessional to or from disability inactive status; and serving as a member of a hearing panel in discipline and disability proceedings.

The use of hearing panels has provided public insight and participation for the lawyer regulation system that protects the public and provides transparency. Statistically, using the PDJ has streamlined the processing of formal proceedings.

<b>Number of Various Filings by Category for the Past Three Years</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Formal Complaints	48	47	52
Pre-Complaint Consent Agreements	22	19	15
Post Complaint Consent Agreements	30	35	32
Interim Suspension	1	3	3
Probation Violations	7	4	1
Disability Petitions	3	2	4
Reciprocal Discipline	5	7	6

**Average Time to Order for Formal Matters**

The charts below describe the average time from formal Complaint to Decision for all cases, contested cases, consent agreements and defaults.

<b>Average Time from Formal Complaint to Decision Order for All Types of Cases</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Days	98	71	86

<b>Average Time from a Formal Complaint to Decision Order for Contested Cases</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Days	180	99	161

<b>Average Time from a Formal Complaint to Decision Order for Default Cases</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Days	95	105	95

<b>Average Time from a Formal Complaint to Final Order for Consent Agreements</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Days	91	96	75

### **Sanctions or Outcomes for Formal Matters**

Matters handled by the PDJ may result in various sanctions or outcomes including discipline, diversion or dismissal; protective orders; resignation orders and reinstatements. The charts below describe the sanctions or outcomes for the last three years. Diversions are not listed.

<b>Sanctions &amp; Outcomes<sup>8</sup></b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Disbarment	8	7	8
Suspension	35	32	23
Reprimand	23	21	25
Hearing Panel Dismissals	0	1	1

<b>Protective Orders Issued by PDJ<sup>9</sup></b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Protective Orders	76	103	82

<b>Resignation Orders in Lieu of Reinstatement Issued by PDJ</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Number of Resignation Orders	7	5	10

<b>Rule 64 &amp; Rule 65 Reinstatement Applications</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>

<sup>8</sup> This chart provides statistics of decisions issued by the Presiding Disciplinary Judge as of December 31, of the corresponding year and may include orders that were on appeal to the Supreme Court

<sup>9</sup> Protective Orders typically address concerns of public disclosure of confidential or personal information.

Rule 64 <sup>10</sup>	12	10	5
Rule 65 <sup>11</sup>	18	17	10

<b>Rule 64 and 65 Reinstatements Filed in 2022 with Status</b>			
<b>Cause Number*PDJ</b>	<b>Applicant</b>	<b>Recommendation by Hearing Panel</b>	<b>Status (As of 12-31-2022)</b>
2022-9012-R*	McCarthy	Reinstate	Reinstated 3/16/22
2022-9022-R*	Claridge	Reinstate	Reinstated 4/21/22
2022-9031-R	Stoker	Reinstate	Reinstated 6/30/22
2022-9060-R	Warnick	Reinstate	Reinstated 10/6/22
2022-9082-R*	Bemis	Reinstate	Reinstated 11/2/22
2022-9080-R	Green	Pending	Pending
2022-9004-R	McWhorter	Reinstate	Reinstated 9/14/22
2022-9010-R*	Adams	Reinstate	Reinstated 3/9/22
2022-9014-R	Peterson	Reinstate	Reinstated 8/24/22
2022-9021-R	Carter	Reinstate	Reinstated 10/13/22
2022-9034-R	Charles	Dismissed	Application Dismissed 6/1/22
2022-9043-R	Charles	Deny	Pending
2022-9065-R*	Hardy	Reinstate	Reinstated 10/27/22
2022-9086-R	Murray	Reinstate	Pending
2022-9046-R	Lynch	Reinstate	Pending

\* Rule 64 reinstatements are by affidavit and ruled upon by the PDJ without the hearing panel.

AO 2020-182 allows the PDJ to issue orders of reinstatement based on consent agreements in reinstatements from an administrative suspension without prior discipline of suspension or disbarment.

### Appeals to the Supreme Court

Sanctions or outcomes of matters handled by the PDJ may be appealed to the Supreme Court. The chart below describes the notices of appeal either filed or concluded in 2022.

<b>2022 Notice of Appeals with Status</b>			
<b>Cause Number* PDJ</b>	<b>Case Name</b>	<b>Action or Sanction</b>	<b>Status (As of 12-31-2022)</b>
2021-9078	McCarthy	Suspension	Suspension
2021-9110	Hardy	Suspension	Suspension
2021-9111	Witt	Reprimand w/Probation	Pending
2022-9028	Baker	Suspension	Pending
2022-9050	Gagic	Suspension	Pending
2022-9058	Bryant	Disbarment (reciprocal)	Pending
2019-9044	Levy	Suspension	Suspension

### Certificates of Good Standing and Discipline History Reports

<sup>10</sup> Suspensions of six months or less.

<sup>11</sup> Disbarments and suspensions of six months and one day or more or administrative suspensions exceeding two- years.

Certificates of Good Standing (COGS) and Discipline History (DH) Reports are processed by the Administrative Office of the Courts’ Certification and Licensing Division and then reviewed and issued by the Disciplinary Clerk, pursuant to Ariz. Sup. Ct. Rule 74.

<b>Certificates of Good Standing &amp; Discipline History Requests</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>COGS</b>	1582	1490	1478
<b>DH</b>	677	626	527

**Independent Bar Counsel**

In 2001, the State Bar Board of Governors created a volunteer Conflict Case Committee (“Committee”) to timely process, investigate and prosecute all aspects of disciplinary matters that, because of the involvement (as applicants, complainants, respondents, material witnesses, or otherwise) of lawyers or others connected with the lawyer discipline system or the State Bar Board of Governors, should not be handled by counsel in the State Bar Lawyer Regulation Office due to conflict of interest concerns. Effective January 1, 2011, the Arizona Supreme Court substantially modified Arizona’s lawyer discipline system, eliminating the Hearing Officer and Disciplinary Commission positions that generated much of the Committee’s work, and replacing the State Bar Probable Cause Panelist with the Attorney Discipline Probable Cause Committee. The Court further determined that the timely, fair and impartial resolution of the cases previously assigned to the Committee and similar cases would be improved by devoting personnel and administrative resources in addition to those available using volunteers.

Accordingly, by Administrative Orders 2014-11 and 2018-20, the Court established the position of Independent Bar Counsel (“IBC”) and appointed a volunteer attorney panel to assist as necessary with the investigation and prosecution of matters assigned to IBC by the State Bar. The IBC reports quarterly to the chair of the ADPCC as to the status of all matters pending and issues a report annually generally describing the nature and disposition of qualifying matters resolved during the preceding year.

The annual report also allows IBC to make any recommendations for improving Arizona’s lawyer admission, discipline, disability and reinstatement procedures. The following is the IBC report for 2022.

**Independent Bar Counsel’s Report Pursuant to Admin. Order 2018-20 ¶6(b)**

**6(b)(i) General description of the nature and disposition of Qualifying Matters resolved by Independent Bar Counsel during the preceding year.**

This report includes cases for calendar year 2022. During that time, Independent Bar Counsel (“IBC”) received a total of nine new bar charges.<sup>12</sup> Below is a breakdown showing detail regarding the nature of the qualifying matter:

<sup>12</sup> Previously, IBC received the following number of new bar charges: 2021 - 2

- 2020 - 32
- 2019 - 12
- 2018 - 13
- 2017 - 8
- 2016 - 4
- 2015 - 14
- 2014 - 21

4(a)(i) (Board member)	4(a)(ii) (State Bar staff)	4(a)(iii) (ADPCC member)	4(a)(iv) (Lawyer previously employed by the State Bar)	4(a)(v) (Hearing Panel member)	4(b) (Other matters assigned by the Chief Justice)	4(c) (Related matter)
0	0	2	0	1	1	5

Four cases were resolved in 2022. Below is a breakdown of how the cases were resolved:

Disbarment	Suspension	Reprimand	Admonition	Diversion or “other appropriate action” per Rule 55(a)(2)(B)	Dismissal with Comment	Dismissal
0	0	0	0	2	1	1

Twenty cases remain pending in 2023.<sup>13</sup> Of those cases, two (2) are currently in formal proceedings with an evidentiary hearing set for April 2023, one (1) is on ADPCC’s calendar for resolution in February 2023, and 17 matters, 12 of which are related to the 2020 general election, remain under investigation.

**6(b)(ii) IBC’s recommendations for improvements to Arizona lawyer admission, discipline, disability and reinstatement procedures.**

IBC has not yet had an opportunity to become involved in matters of lawyer admission, disability or reinstatement proceedings and consequently has no recommendations other than to remind those involved with lawyer admission, disability or reinstatement that she is available to assist.

Currently, IBC does not have any recommended improvements to the attorney discipline system.

**IV. Review by the Arizona Supreme Court**

The Arizona Supreme Court has exclusive authority over the regulation of attorneys. *Scheehle v. Justices of the Supreme Court of the State of Arizona*, 211 Ariz. 282, 289 (2005). “[T]he practice of law is a matter exclusively within the authority of the Judiciary. The determination of who shall practice law in Arizona and under what condition is a function placed by the state constitution in this court.” *Hunt v. Maricopa County Employees Merit Sys. Comm’n*, 127 Ariz. 259, 261–62 (1980). In addition to overseeing the attorney discipline and admissions procedures in Arizona, the Court reviews specific cases that come before it for review. The Court considers appeals in formal attorney disciplinary matters, reviews recommendations of hearing panels in reinstatement cases, considers petitions for review from decisions of the Committee on Character and Fitness and the Committee on Examinations in admissions matters, and reviews recommendations for the conditional admission of applicants. Below are statistics for attorney discipline and admission cases that came before the Court in the past three years.

<sup>13</sup> As of the date of this report, two cases were resolved in January 2023 and will be reflected on next year’s report.



<b>DISCIPLINARY APPEALS</b>			
	<b>2020<sup>14</sup></b>	<b>2021</b>	<b>2022</b>
Filed	4	6	6
Concluded	6	5	5
Pending at year end	2	3	4
Average Days to Conclusion	285	166	206

<b>REINSTATEMENTS</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Filed	4	8	8
Concluded	5	7	8
Pending at year end	0	1	1
Average Days to Conclusion	65	84	49

<b>PETITIONS FOR REVIEW (ADMISSION)</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Filed	16	18	24
Concluded	16	21	28
Pending at year end	8	4	1
Average Days to Conclusion	61	65	39

<b>CONDITIONAL ADMISSIONS</b>			
	<b>2020</b>	<b>2021</b>	<b>2022</b>
Filed	8	10	5
Concluded	10	10	2
Pending at year end	0	0	3
Average Days to Conclusion	44	47	39

## **V. ARC Action on Rule-Change Petitions**

During 2022, ARC participated in drafting portions of proposed rule changes or provided comments on the following eight rule petitions:

<b>Petition No.</b>	<b>Affected Rules</b>	<b>Summary</b>	<b>Action</b>	<b>Comments Filed</b>
R-22-0001	Rule 42 (ER 7.1), Arizona Rules of the Supreme Court	Reinstate the phrase “or retired,” which would explicitly permit a law firm’s name to include the name of a retired member of the firm.	Staff filed comment in support.	4/29/2022

<sup>14</sup> The 2020 statistics include an appeal that required a remand to the hearing panel.

R-21-0041	Rule 42 (ER 1.2), Arizona Rules of the Supreme Court	Add an additional subpart providing that despite a general rule against assisting a client in conduct that the lawyer knows is criminal, a lawyer may counsel or assist a client regarding conduct expressly permitted by Arizona state law, even if it violates federal law or the law of another jurisdiction.	Staff filed comment in support.	4/29/2022
R-21-0043	Rule 56(c) Arizona Rules of the Supreme Court	Expand the authority of bar counsel to enter diversion agreements. Originally adopted by the Court in R-19-0040 but was inadvertently abrogated in R-20-0034.	Staff filed comment in support.	4/29/2022
R-21-0047	Rule 42.1, Rules of the Supreme Court of Arizona	Requests for opinions from the Ethics Advisory Committee must be submitted to Committee staff at the Administrative Office of the Courts, Certification and Licensing Division (rather than the Supreme Court Clerk), that Committee Staff (and not the Clerk) would be responsible for posting Committee opinions on the Supreme Court website, and that persons would no longer have the right to seek reconsideration of a Committee opinion after it is posted.	Staff filed ARC comment in support drafted by Presiding Disciplinary Judge.	4/29/2022
R-21-0049	Rule 55(b)(2)(C), Arizona Rules of the Supreme Court	Eliminate the five-page limitation for a complainant's written objection to the State Bar's recommendation and the respondent's written response to the Bar's Report of Investigation.	Staff filed comment in support.	4/29/2022
R-22-0013	Rule 38, Arizona Rules of the Supreme Court	Minor changes to notice requirements and other provisions, and would amend the accompanying comments to reinsert a comment regarding in-house counsel.	Staff filed comment in support.	4/29/2022
R-22-0016	Rule 32, Arizona Rules of the Supreme Court	Final decisions of Bar licensure and discipline would be decided by a jury trial.	Staff filed comment in opposition.	4/29/2022

R-22-0020	Rules 34, 35, and 36, Arizona Rules of the Supreme Court	Clarify the “good standing” requirement with respect to eligibility to sit for the Arizona uniform bar examination and to clarify that an applicant aggrieved by a decision of the Committee on Character and Fitness does not have the right to file a reply brief in support of a petition for review to the Supreme Court.	Staff filed comment in support.	4/29/2022
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#### **IV. Other Committee Actions**

After three years serving as chair of the committee, Vice Chief Justice Ann A. Scott Timmer concluded her term at the end of 2022. Justice John R. Lopez IV was appointed chair of the committee for a term beginning January 1, 2023 under [AO 2023-36](#). Under [AO 2022-182](#) member Lisa Panahi was reappointed to the committee and the Court appointed Andy Kvesic; Commission on Judicial Conduct Director April Elliott; and Court of Appeals, Division One Judge Cynthia Bailey as attorney members for terms beginning January 1, 2023.