

State of Michigan

Judicial Tenure Commission

Annual Report 2024



Judicial Tenure Commission
Cadillac Place
3034 W. Grand Blvd.
Suite 8-350
Detroit, Michigan 48202
(313) 875-5110
jtc.courts.mi.gov

COMMISSIONERS

THOMAS J. RYAN, ESQ.

CHAIRPERSON

HON. THOMAS C. CAMERON

VICE CHAIRPERSON

HON. BRIAN R. SULLIVAN

SECRETARY

HON. MONTE J. BURMEISTER

DR. MAXINE HANKINS CAIN

HON. PABLO CORTES

SIHAM AWADA JAAFAR

HON. QIANA DENISE LILLARD



LYNN HELLAND, ESQ.

EXECUTIVE DIRECTOR

KEVIN B. HIRSCH, ESQ.

DEPUTY EXECUTIVE DIRECTOR

3034 W. GRAND BLVD.

STE 8-350

CADILLAC PLACE BUILDING

DETROIT, MICHIGAN 48202

TELEPHONE (313) 875-5110

FAX (313) 875-5154

WEBSITE: jtc.courts.mi.gov

Judicial Tenure Commission

May 20, 2025

Honorable Justices of the Michigan Supreme Court

Honorable Gretchen Whitmer, Governor

Honorable Members of the Michigan Legislature

Honorable Judges

I am pleased to present the Commission's 2024 Annual Report. This report informs the public and all branches of state government about the Commission's duties, operations, and actions.

The Michigan Judicial Tenure Commission thanks the Legislature, Governor Whitmer and the Supreme Court for continuing to provide the Commission with resources it needs to ensure the judiciary is working for the people of the state. The Commission used those resources to continue to reduce the backlog of investigations that had accumulated during years when the Commission's workload exceeded the capacity of staff.

The Commission remains committed to fulfilling its responsibilities to the people of the State of Michigan. It thanks its staff for their hard work. We hope the vigilant and dedicated work of the Commission will promote the public's confidence in the integrity, independence, and fairness of the Michigan judiciary.

Very truly yours,

Thomas J. Ryan, Esq.

Chairperson

For the Commission

TABLE OF CONTENTS

2024 COMMISSIONERS	iv
COMMISSIONER BIOGRAPHIES	vi
I. COMMISSION COMPOSITION & SCOPE OF AUTHORITY.....	1
A. COMPOSITION OF THE COMMISSION	1
B. LEGAL AUTHORITY.....	1
1. Michigan Constitution	1
2. Michigan Court Rules	1
3. Code of Judicial Conduct	2
C. PERSONS WITHIN COMMISSION JURISDICTION	2
D. WHAT THE COMMISSION CANNOT DO	2
E. WHAT THE COMMISSION CAN DO.....	2
II. OVERVIEW OF THE COMPLAINT PROCESS	3
A. HOW MATTERS COME BEFORE THE COMMISSION.....	3
B. COMMISSION REVIEW OF REQUESTS FOR INVESTIGATION	3
C. ACTION THE COMMISSION CAN TAKE	4
1. Confidential Dispositions	4
2. Public Dispositions	5
a. The Complaint.....	5
b. Hearing	5
c. Proceedings Following Hearing by Master.....	5
d. Disposition by Commission	6
e. Supreme Court Review.....	6
D. CONFIDENTIALITY OF COMMISSION PROCEEDINGS.....	6
III. 2024 FACTS & FIGURES	7
A. COMPLAINTS RECEIVED AND INVESTIGATED	7
B. GRIEVANCE DISPOSITIONS	8
1. Closed without Action.....	8
2. Closed with Private Action	8
3. Public Action	8
C. ANALYSIS OF GRIEVANCES CONSIDERED IN 2024	10
1. Sources of Requests for Investigation	10
2. Subject Matter of Grievances	11
3. Nature of Underlying Litigation.....	12
4. Positions of Respondents	13
5. Summary of Resolutions	14
IV. RACIAL EQUITY ANALYSIS.....	15

V. CASE SUMMARIES	15
A. PUBLIC PROCEEDINGS AND RESOLUTIONS.....	15
FC No. 104, Hon. Paul J. Cusick – 3rd Circuit Court (Wayne County)	15
FC No. 105, Hon. Demetria Brue – 36th District Court (Detroit).....	16
FC No. 106, Hon. Debra Nance – 46th District Court (Southfield)	16
B. NON-PUBLIC PROCEEDINGS	17
1. Conduct on the Bench	17
a. Failure to be Faithful to the Law & Demeanor.....	17
b. Lack of courtesy and respect	20
c. Ex parte communication	21
d. Delay.....	22
e. Appearance of impropriety	23
f. Failure to be faithful to the law and lack of courtesy and respect.....	24
g. Failure to be faithful to the law, lack of courtesy and respect, failure to avoid premature judgments, and loss of impartiality.....	27
h. Failure to be faithful to the law, lack of courtesy and respect, failure to avoid premature judgments and loss of impartiality.....	28
i. Failure to be faithful to the law, ex parte communications and failure to report an attorney for unprofessional conduct	29
j. Failure to be faithful to the law and delay	29
k. Failure to be faithful to the law, appearance of impropriety, ex parte communications, and loss of impartiality	30
l. Ex parte communications, failure to avoid premature judgments and loss of impartiality.....	31
m. Loss of impartiality, lack of courtesy and respect, ex parte	31
2. Conduct off the Bench.....	33
a. Failing to observe the law.....	33
b. Appearance of impropriety and serving as officer of corporation.....	34
c. False statements during a campaign.....	34
VI. COMMISSION ORGANIZATION, STAFF AND BUDGET	35
 A. COMMISSION ORGANIZATION AND STAFF.....	35
 B. BUDGET	36
VII. CONCLUSION	36

2024 COMMISSIONERS

**Hon. Jon H. Hulsing, Chair
(January-September)**
20th Circuit Court
414 Washington Avenue, Room 303
Grand Haven, MI 49417
Term expired 12/31/24
Elected by Circuit Court judges

James W. Burdick, Esq., Vice-Chair
Burdick Law, P.C.
1760 South Telegraph Road, Suite 300
Bloomfield Hills, MI 48302-0183
Term expires 12/31/26
Elected by State Bar membership

Hon. Brian R. Sullivan, Secretary
Third Circuit Court
2 Woodward Avenue, Room 1101
Detroit, MI 48226
Term expires 12/31/27
Elected by State Bar membership

Hon. Monte J. Burmeister
Crawford County Probate Court
200 W. Michigan Avenue
Grayling, MI 49738
Term expires 12/31/26
Elected by Probate judges

Dr. Maxine Hankins Cain
3034 W. Grand Blvd., Suite 8-350
Detroit, MI 48202
Term expires 12/31/26
Appointed by Governor Gretchen Whitmer

Hon. Thomas C. Cameron
Court of Appeals
3020 W. Grand Blvd. Suite 14-300
Term expires 12/31/27
Elected by Court of Appeals judges

Hon. Pablo Cortes
62A District Court
2650 DeHoop Avenue S.W.
Grand Rapids, MI 49509
Term expires 12/31/25
Elected by District Court judges

Siham Awada Jaafar
3034 W Grand Blvd Suite 8-350
Detroit, MI 48202
Term expires 12/31/25
Appointed by Governor Gretchen Whitmer

**Thomas J. Ryan, Esq. Chair
(October-December)**
2055 Orchard Lake Road
Sylvan Lake, MI 48320
Term expires 12/31/25
Elected by State Bar membership

JUDICIAL TENURE COMMISSION 2024



FRONT: Hon. Monte J. Burmeister; Maxine Hankins Cain; Siham Awada Jaafar; Lynn Helland, Executive Director;
Hon. Brian R. Sullivan, Secretary

REAR: Thomas J. Ryan, Esq.; Hon. Thomas C. Cameron; Hon. Jon H. Hulsing, Chairperson;
James W. Burdick, Esq., Vice-Chairperson

NOT PRESENT: Hon. Pablo Cortes

2024 COMMISSIONER BIOGRAPHIES

James W. Burdick, Esq., specializes in complex criminal litigation and health care licensing, discipline and reinstatement. In addition to his practice, he has been appointed by the federal court to chair, and to be a member of, federal panels evaluating applicants for the position of United States Magistrate Judge, and for sitting Magistrate Judges applying for renewal of their tenure. He has chaired an Attorney Grievance panel since the 1980s, hearing and deciding a multitude of complaints. He has represented clients throughout state and federal courts. Upon earning his Juris Doctorate at University of Michigan Law School, he was recruited by the Wayne County Prosecutor's Office, where he tried dozens of felony cases of all types. During his career in private practice, he has represented hundreds of individuals in criminal investigations, prosecutions and health care licensing discipline matters. For seven years he was an active member of the Michigan Board of Medicine. Mr. Burdick serves as the Vice-Chairperson of the Commission.

Hon. Monte J. Burmeister is the probate judge for Crawford County, Michigan. He was elected to the probate bench in 2006 and was reelected in 2012, 2018, and 2024. Judge Burmeister was in private practice prior to taking the bench and operated his own law firm from 1999 through 2006. He graduated with a Bachelor of Arts from James Madison College at Michigan State University, with honors, in 1990, and received his Juris Doctor from Wayne State University Law School in 1993. Judge Burmeister is the past President of the Michigan Probate Judges Association. He began his tenure with the Commission in 2013. In 2018 Judge Burmeister served as the Commission's Vice-Chairperson and in 2019 and 2020 he served as the Commission's Chairperson.

Hon. Thomas C. Cameron was appointed to the Michigan Court of Appeals in 2017 and previously served as a judge on the Wayne County Circuit Court bench from 2014 until his appointment to the Court of Appeals.

Previously, Judge Cameron worked for the Michigan Department of Attorney General, where he managed several large civil and criminal divisions for the Attorney General, including the Civil Rights Division, Corrections Division, Criminal Division, Alcohol and Gambling Division, and several other divisions. Before serving as a senior manager, he litigated high-profile public corruption and cold case homicides for the Attorney General's Office.

Judge Cameron serves on several commissions, boards, and associations, including the Michigan Judicial Tenure Commission, the Michigan Judges Association, the Michigan Chapter of the Federalist Society, and the Detroit Metropolitan Bar Association. He is a former board member of the Michigan Domestic and Sexual Violence Prevention and Treatment Board and the former Chairman of the Michigan Commission on Law Enforcement Standards.

Judge Cameron also serves as an adjunct professor at Madonna University, where he teaches constitutional law and criminal law and procedure.

Dr. Maxine Hankins Cain is the child of former sharecroppers who stressed the importance of education and being of service to the community.

Maxine received her undergraduate degree in elementary education from Norfolk State University in 1968; a master's degree in reading from the University of Michigan in 1977; administrative certification courses from Michigan State University in 1993; and her doctoral degree in K-12 Educational Administration from Union Institute and University in 2011.

Maxine began her professional career in 1968 as a primary teacher with the Detroit Public Schools. She has since served as an educational resource specialist; a principal in Lansing and Detroit; the Director of Elementary Education for the Lansing District; and the Superintendent of Sankofa Shule Public School Academy in Lansing.

Maxine has often spoken to local and national business and educational organizations about strategies that strengthen self-esteem, diversity and inclusion, empowering people to improve, and teaching our youth and adults.

Maxine is the recipient of the Sojourner Truth Award (Greater Lansing Area Negro Business and Professional Women's Club, Inc.), Multi-Cultural Award (Michigan Education Association), NAACP Membership Award (Lansing Chapter), Chairperson Awards (YMCA), the Whitney Young Award (Boy Scouts of America), and the Sister Cities International Volunteer of the Year Award (2018), to mention a few.

Maxine is the President of the Lansing Regional Sister Cities Commission, a very active volunteer with AARP, a Diamond member of the NAACP, a member of Delta Sigma Theta Sorority, the National and Detroit Chapters of the Association of Black Storytellers (portraying Harried Taubman and Fannie Lou Hamer), and a Certified Laughter facilitator with World Laughter, Inc. She uses these platforms to emphasize the importance of education, the power of one to make a difference, and the importance of giving back to the community.

Hon. Pablo Cortes is chief district court judge in the city of Wyoming, Kent County. He was appointed to his seat in 2005 and subsequently elected in 2006, 2008, 2014, and 2020. From 1995 until taking the bench, Judge Cortes served as an assistant prosecuting attorney for Kent County. Judge Cortes graduated from the University of Michigan in Ann Arbor with honors in 1989 and from Wayne State University Law School in Detroit in 1995. He was elected to the Commission in 2010. Aside from his service on the Commission and various community groups, Judge Cortes serves on the board of the Michigan District Court Judges Association and its legislative committee. He has served as an adjunct professor at the Grand Rapids Community College Police Academy and as

an adjunct professor at the Thomas M. Cooley Law School in Grand Rapids. Judge Cortes served as the Commission's Secretary in 2013 and 2014. He served as the Commission's Vice-Chairperson in 2015 and 2016, and the Commission's Chairperson in 2017 and 2018.

Hon. Jon H. Hulsing is the Chief Judge pro tem for the 20th Circuit Court in Ottawa County, where he has served as a judge since 2006. His docket consists of criminal and civil cases. In 2018 he was elected by Michigan's circuit court judges to be their representative on the Commission. In addition to six years of private law practice, Judge Hulsing served as an Assistant and Senior Assistant Prosecutor in Ottawa County from 1995 to 2006. He began his public service in 1983 as a deputy with the Ottawa County Sheriff's Office and then as a patrolman with the City of Wyoming Police Department. He graduated summa cum laude with a Juris Doctorate from Thomas M. Cooley Law School. In 2020 he became one of 22 national commissioners for the Commission for the Accreditation of Law Enforcement Agencies (CALEA), which establishes best practices for law enforcement agencies. He served as the Judicial Tenure Commission's Vice-Chairperson in 2021. In August 2021 Judge Hulsing became the Chairperson of the Commission, after the untimely passing of former Chairperson Hon. Karen Fort Hood, and continued to serve in that capacity until September 2024.

Siham Awada Jaafar was appointed to the Judicial Tenure Commission for the State of Michigan by Governor Gretchen Whitmer to a term that began on January 17, 2020, and was reappointed for a second term starting in 2023. Siham feels honored and privileged to have been reappointed to the JTC and is grateful for the opportunity to serve the state in such a vital role. In addition to her JTC appointment she was also appointed by the Michigan Supreme Court to serve on the Commission for Equity in the Judiciary with a term ending in December 2025. Siham also looks forward to serving the people of Wayne County via her most recent 2025 appointment to the Wayne County Board of Ethics Commission by Wayne County Prosecutor Kym Worthy.

As President and CEO of 3D Consulting and Communications, Ms. Jaafar conducts cultural competency and diversity training customized for corporations, law enforcement, government & health care agencies, educational institutions and various organizations. She is the founder and producer of the award winning nationally acclaimed "Images and Perceptions Diversity Conference," which has been in production in metro Detroit since 2002 and celebrated its 21st anniversary last year. The conference has also been produced in Chicago since 2013.

Ms. Jaafar lives her passion through creating a conversation around diversity and dispelling stereotypes. Her training, workshops and conferences have proven exceptionally effective in building bridges of communication across racial, religious, ethnic and gender divides. She has been instrumental in creating and producing several projects and initiatives geared towards community and public affairs programs, women in leadership, and scholarship programs, and has also worked extensively with underserved communities to provide mentorship and educational opportunities. She is

exceptionally proud of the partnership between her organization, Images & Perceptions, Lawrence Tech University and Crestwood School District's Superintendent Dr. Youseff Mosallam providing scholarships to Crestwood students.

A multi award-winning public relations, diversity & inclusion specialist, Ms. Jaafar is a certified mediator and served on the board of the Wayne County Dispute Resolution Center for 14 years of which she served as President for 8 years and is currently the chairwoman of its Advisory Board. She served on the board of directors for NAWBO (National Association of Women Business Owners) and was its Public Policy Chairwoman for two years. She is the former Chairwoman of the ACCESS Coalition against Domestic Violence, and producer of the "Voices over Violence" program. She is also a founding member of BRIDGES (Building Respect in Diverse Groups to Enhance Sensitivity) where government and community come together to discuss vital issues. She has served on multiple boards, including and not limited to Junior Achievement of Michigan, WXYZ Community/Media Stakeholders Committee, Chairwoman of the Greater Detroit Jewish Muslim Council, ACLU Communications Committee, Friends United Founder and Board Member for Interfaith Committee.

Ms. Jaafar was recently recognized by NAWBO as "Diversity Business Woman of the Year," named Diversity Champion by Corp Magazine, honored with the Esteemed Woman of the Year Award by the Bernstein Foundation, received the State of Illinois Governors Diversity Recognition Award, presented with the Leadership in Action Achievement Award by Career Mastered, and was honored with the National Rose Nader Award (Presented by Ralph Nader in Washington DC). She was recently recognized by HOUR Magazine as Detroit's Bridge Builder of the Year. She has been featured in multiple publications and feels honored and privileged to have an opportunity to share her work and insight regarding current events and issues that affect our communities. She has been a proud Dearborn Heights resident for over 45 years and hosted the WDHT TV programs, "Off the Cuff" and "Community Connection" for over 10 years until 2021. Ms. Jaafar was appointed by Mayor Dan Paletko to the City of Dearborn Heights Planning Commission and proudly served that position from May 2009 until January 2021. She and her amazing husband Hassane Jaafar, her daughter Gina, her grandson Jordan, and her son Alex all have been very proud Dearborn Heights residents.

Thomas J. Ryan, Esq., is a member of the State Bar of Michigan, Oakland County Bar Association, and the American Bar Association. Mr. Ryan is a past president of the State Bar of Michigan, serving as its 66th president from September 2000 to September 2001. Mr. Ryan served on the Oakland County Bar Association's board of directors and was its president from 1993 to 1994. He received his undergraduate degree from the University of Notre Dame and his law degree from the University of Detroit Mercy. Mr. Ryan has been in the private practice of law since January 1977, and is the attorney for the Village of Beverly Hills and the City of the Village of Clarkston. Mr. Ryan has previously served as the Commission's Vice Chairperson and Chairperson, and became its chairperson again in October 2024.

Hon. Brian R. Sullivan was elected to the Wayne County Circuit Court in 1998. He served as presiding judge of the criminal division in 2004 and as the presiding judge of the Wayne County Business Court for about 7 years. Judge Sullivan was a member of the Criminal Jury Instruction Committee for about 12 years and the Model Civil Jury Instruction committee for eleven years (each at the appointment of the Michigan Supreme Court).

Judge Sullivan was an adjunct law school instructor for 10 years. He is a member of the Michigan Board of Law Examiners. Before taking the bench, Judge Sullivan was an assistant prosecuting attorney and in private practice for about 15 years. He also ran a free legal clinic in downtown Detroit at Most Holy Trinity Church for 20 years. Judge Sullivan was elected to the Judicial Tenure Commission beginning January 1, 2019. Judge Sullivan serves as the Secretary of the Commission.

I. COMMISSION COMPOSITION & SCOPE OF AUTHORITY

The Judicial Tenure Commission is an independent state agency. Its purpose is to enforce high standards of ethical conduct for judges. The Commission recognizes that judges must be free to act independently and in good faith to fairly resolve the merits of each case over which they preside. At the same time, an effective disciplinary system must hold judges accountable for misconduct.¹

That means the judicial discipline system must simultaneously protect the public from unethical judicial conduct, preserve the institutional integrity of the judiciary, and prevent unsubstantiated complaints from interfering with the important work judges do. To those ends, the Commission investigates allegations of judicial misconduct and disability, conducts hearings as appropriate, recommends sanctions to the Michigan Supreme Court, and otherwise works to enhance the integrity of the judiciary.

A. Composition of the Commission

The Commission consists of five judges, two attorneys, and two lay persons. All commissioners serve three-year terms, staggered such that three positions are filled each year. The lay commissioners are appointed by the governor. The lawyers are elected by the State Bar of Michigan. Four of the judges are elected by the court on which they serve (Probate, District Court, Circuit Court, Court of Appeals), while one judge is elected at large by the State Bar of Michigan.

B. Legal Authority

1. Michigan Constitution

The Judicial Tenure Commission was established by a 1968 amendment to the Michigan Constitution. The Commission's authority is set forth in Article 6, section 30 of the Constitution, which is on the Commission's website (jtc.courts.mi.gov).

2. Michigan Court Rules

The Constitution instructs the Michigan Supreme Court to make rules to govern judicial discipline. The Court created Chapter 9.200 of the Michigan Court Rules pursuant to that directive. The current rules are on the Commission's website (jtc.courts.mi.gov).

¹ In this report, a “judge” is any judicial officer within the Commission’s jurisdiction, including active judges, retired judges who are available to sit by assignment, magistrates, and referees.

3. Code of Judicial Conduct

In 1974 the Michigan Supreme Court adopted the Michigan Code of Judicial Conduct to establish ethical standards for judges. The Commission enforces the Code, often referred to as the “canons.” The current canons are on the Commission’s website (jtc.courts.mi.gov).

C. Persons within Commission Jurisdiction

The Commission has jurisdiction over all state “judges” as defined in footnote 1. In 2024 there were 1,246 active judges in Michigan.²

The Commission does not have jurisdiction over judicial candidates before they are elected; federal judges; or administrative law hearing officers such as workers compensation magistrates, department of corrections hearing officials, and the like. The Commission obtains jurisdiction over the conduct of judicial candidates if and when those candidates become judges.

D. What the Commission Cannot Do

The Commission is not an appellate court. The Commission cannot change a judge’s decision. If a court makes an incorrect decision or misapplies the law, that ruling can be changed only through the appellate process.

The Commission also cannot get a judge removed from a case or have a matter transferred to another judge. Nor can the Commission provide legal assistance to individuals or intervene in litigation on behalf of a party.

E. What the Commission Can Do

The Commission’s authority is limited to investigating alleged judicial disability or ethical misconduct, and, if warranted, recommending that the Michigan Supreme Court impose discipline. Judicial misconduct usually involves conduct in conflict with the Code of Judicial Conduct. Examples of judicial misconduct include inappropriate demeanor (such as bullying or disrespect); improper communication with fewer than all of the parties in a case; failure to disqualify in cases in which the judge has or appears to have a financial or personal interest in the outcome; delay or dereliction in performing judicial duties; and flagrant failure to follow the law. Judicial misconduct may also involve improper off-the-bench activities, including committing a crime (such as driving under the influence or misappropriating public money) or making false statements. The public discipline the Commission can recommend includes public censure, suspension

² The Commission also has jurisdiction over former judges, if a request for investigation is filed while that judge is still in office or relates to the former judge’s tenure. However, the Michigan Constitution does not authorize any sanction, other than public censure, that is applicable to a judge who is no longer active. For that reason, the Commission generally will not investigate retired judges who are not sitting as visiting judges.

with or without pay, and removal. When appropriate, the Commission can also address judicial misconduct privately, through a letter of caution or admonition.

II. OVERVIEW OF THE COMPLAINT PROCESS

A. How Matters Come Before the Commission

The Commission usually begins an investigation based on a “request for investigation” (or “grievance”). Anyone may use the Commission’s complaint form to file a grievance against a judge. The form is on the Commission’s website (jtc.courts.mi.gov) or may be obtained in hard copy by contacting the Commission office. The court rules require that the person filing the grievance (“the grievant”) get his or her signature notarized to establish that he or she has sworn that the statements made in the grievance are true.

The Commission may also begin an investigation on its own. For example, though the Commission rarely considers complaints made anonymously, it may do so in its discretion. It may also open a file into matters it learns of in other ways, such as news articles or information received in the course of another Commission investigation. The Commission may also begin an investigation at the request of the State Court Administrator or the chief justice of the Michigan Supreme Court.

B. Commission Review of Requests for Investigation

Each properly executed grievance about a Michigan judge is carefully reviewed by the staff. To do its initial review the staff may review the court file to the extent it is available online. The staff requests from the grievant or grievant’s attorney any additional information needed to do a preliminary evaluation of the grievance. The staff may not investigate beyond that unless the Commission so authorizes.

After assessing the initial information, the staff prepares a report for the Commission that recommends a course of action. For every grievance, the Commission determines either a) the information provided by the grievant and obtained by the staff does not suggest the judge committed misconduct, and therefore the grievance should not be pursued, or b) there is sufficient evidence of misconduct to warrant further investigation.

If the initial investigation shows the judge did not commit misconduct, the Commission closes the grievance without contacting the judge. The judge is given a copy of the grievance when the Commission closes the case, unless the Commission determines otherwise for good cause.

When the Commission determines that a grievance warrants further investigation, it directs the staff to investigate and approves the scope of the investigation. Commission investigations may include interviewing witnesses; obtaining court records and other documents; obtaining transcripts, audio, and video of court proceedings; obtaining a physical or mental examination of a judge; and such other

investigation as needed. The staff reports to the Commission at the conclusion of the investigation.

If the investigation will be aided by obtaining the judge's comments, the Commission asks for comment on some or all of the evidence developed. The Commission then considers the judge's response together with all other information developed during the investigation.

C. Action the Commission Can Take

1. Confidential Dispositions

The Commission has several options after an investigation. If the allegations are found to be untrue or unprovable the Commission will usually close the case without action, though if the Commission determines that certain actions of the judge were problematic but fall short of misconduct, the Commission may dismiss with a letter explaining that to the judge.

Action the Commission Can Take

- Dismiss
- Dismiss with Explanation
- Dismiss with Caution
- Dismiss with Admonition
- Recommend Private/Public Censure, Suspension, or Removal to Supreme Court

If the Commission determines that improper conduct occurred but was relatively minor, the Commission may dismiss with a private letter of caution. A letter of caution advises the judge of the ethical concerns raised by the conduct and warns that the judge should not repeat it.

When the investigation reveals misconduct that is more clearly established or more serious but does not rise to the level that public sanction is appropriate, the Commission may dismiss with a private admonition. An admonition summarizes the Commission's findings about the improper conduct and admonishes the judge not to repeat it.

Explanations, cautions, and admonitions are letters of guidance or reproach that the Commission only sends after the judge has been asked to explain his or her position. These letters inform the judge so the conduct will not escalate or be repeated. Summaries of conduct that resulted in such letters issued in 2024 are contained in Section V.

Letters of explanation, caution, and admonition are confidential. The Commission informs grievants when a grievance has been dismissed, and in cases in which the dismissal includes some private action the Commission informs the grievant that action was taken, in a letter that does not provide details. The strict confidentiality rules that govern judicial misconduct investigations ordinarily preclude the Commission and its staff from advising anyone, even the person who lodged the grievance, of the precise way the Commission resolved a grievance.

2. Public Dispositions

a. The Complaint

When misconduct is clear enough and serious enough to warrant a public resolution, the Commission first sends the judge what is known as a “28-day” letter pursuant to MCR 9.222. The 28-day letter informs the judge of the charges the Commission anticipates bringing and gives the judge an opportunity to answer those charges. Unless the judge’s answer persuades the Commission that public resolution is unwarranted, the Commission then issues a public complaint, which becomes the first public document in the investigation.

The complaint, the judge’s answer to it, and all subsequent pleadings are public documents. To the extent practicable, they are placed on the Commission’s website (jtc.courts.mi.gov).

After the Commission files the complaint, the judge is entitled to all documentary evidence in the Commission’s possession that is to be introduced at the hearing on the complaint. The Commission must also give the judge the name and address of any person to be called as a witness and make available to the judge all exculpatory material in its possession.

The Commission may petition the Supreme Court for an interim order suspending a judge pending resolution of a complaint when interim suspension is necessary for the proper administration of justice. In extraordinary circumstances the Commission may make this request before a complaint is issued.

b. Hearing by Master

After the Commission files a complaint, it petitions the Supreme Court to appoint a master to conduct a hearing to take evidence concerning the complaint. Masters are typically, though not necessarily, retired Michigan judges.

The judge against whom the Commission filed the complaint may be represented by counsel at the hearing and all related proceedings. The evidence in support of the charges is presented by “disciplinary counsel.” “Disciplinary counsel” is typically one or more Commission staff attorneys. The Michigan Rules of Evidence apply to the hearing, which is conducted like a civil bench trial. The standard of proof in Commission proceedings is by a preponderance of the evidence.

c. Proceedings Following Hearing by Master

After the hearing concludes, the master files a report with the Commission. The report includes a statement of the proceedings and the master’s findings of fact and conclusions of law with respect to the charges in the complaint and the judge’s answer.

Both the judge and disciplinary counsel may ask the Commission to accept or reject the master's report in part or in whole and may have oral argument before the Commission.

d. Disposition by Commission

If the Commission determines there is insufficient evidence of misconduct to sustain the charges, it dismisses them. If, after receiving the master's report and any written or oral argument, the Commission determines that one or more charges in the complaint have been proven, it typically issues a decision and recommendation to the Supreme Court. That decision and recommendation may recommend that the Supreme Court discipline the judge. The discipline the Commission may recommend is public censure, a suspension of any duration, involuntary retirement, or removal from office. The Commission has no authority to discipline a judge itself; the Michigan Constitution reserves that role for the Supreme Court.

e. Supreme Court Review

Within 21 days after issuing its decision and recommendation the Commission files the original record in the Supreme Court and serves a copy on the judge. Within 28 days after that the judge may file a petition in the Supreme Court to modify or reject the Commission's decision and recommendation. The Commission has 21 days to respond. Even if the judge does not file a petition, the Supreme Court independently reviews the Commission's decision and recommendation.

The judge and Commission both have an opportunity to present oral arguments to the Court. The Court reviews the evidence, then issues an opinion accepting, rejecting, or modifying the Commission's decision and recommendation. If the Court finds the judge committed misconduct, it sanctions the judge through censure, suspension, involuntary retirement, removal, or in the case of a consent sanction, such other disciplinary action to which the parties have agreed. The judge may file a motion for rehearing before the Court unless the Court directs otherwise in its opinion.

D. Confidentiality of Commission Proceedings

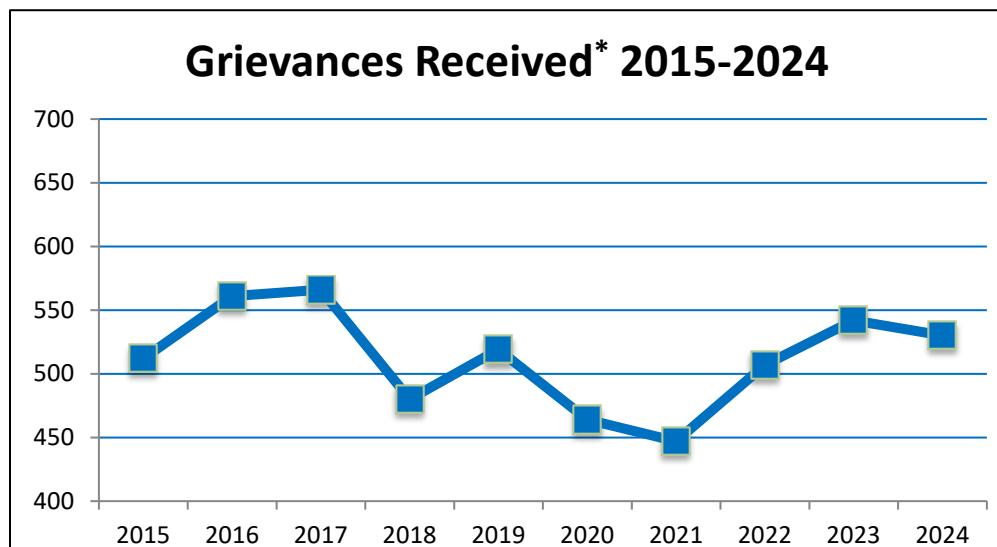
The Michigan Constitution directs the Supreme Court to provide for the confidentiality of complaints to, and investigations by, the Commission. Pursuant to this directive, Michigan Court Rule 9.261 provides that grievances and investigations are strictly confidential, subject to certain limited exceptions, unless and until the Commission issues a public complaint against the judge. Although confidential for most purposes, the grievance is typically provided to the judge during the course of the investigation. Further, as a practical matter, once the Commission begins to obtain documents or interview witnesses the fact of the investigation may become known even though the Commission treats it as confidential.

Once public proceedings are instituted, the complaint, answer, and all subsequent pleadings and proceedings are open to the public. The court rules also permit the Commission publicly to acknowledge an investigation before a complaint is issued if a majority of Commissioners determine it is in the public interest to do so. Even in such a case, the Commission's statement is limited to either (1) there is an investigation pending, or (2) the investigation is complete and there is insufficient evidence for the Commission to file a complaint. The Commission very rarely determines that it is in the public interest to acknowledge an investigation prior to issuing a public complaint.

III. 2024 FACTS & FIGURES

A. Complaints Received and Investigated³

In 2024 there were 530 requests for investigation filed that complained about actions by a total of 331 judges.⁴



The Commission received fewer grievances in 2020 and 2021 than it had in previous years. The reasons are unclear, but the drop may have been due in part to the

* For at least 2016 forward, “grievances received” is the total number of complaints against judges, not the number of requests for investigation. For example, if a request for investigation alleges that two judges committed misconduct, this report counts that as two complaints against judges, since each complaint must be investigated separately.

³ The numbers below for filed cases, resolved cases, and other figures, may sometimes appear inconsistent for several reasons: a single request for investigation can name multiple judges or rest on multiple types of alleged misconduct; the Commission sometimes opens an investigation on its own, with no request for investigation having been filed; the Commission often addresses multiple requests for investigation regarding a judge in one public complaint, admonition, or other resolution; and based on the confidentiality restrictions relating to the Commission's investigations, some information relating to cases may not be disclosed.

⁴ Some judges were named in multiple requests for investigation.

pandemic. The number of grievances has returned to “normal” since 2022. Though the total grievances declined in 2020 and 2021, the number of grievances with merit did not decline. In fact, beginning in 2017 the number of grievances that result in full investigations has been substantially higher than it had been in 2016 and before.

The grievances alleged a wide array of claims. A substantial percentage alleged legal error or expressed dissatisfaction with a judge’s discretionary handling of judicial duties, neither of which is misconduct that is within the authority of the Commission.

The Commission also received grievances concerning individuals who did not come under the Commission’s jurisdiction, such as federal judges, former judges, workers’ compensation judges, other government officials and miscellaneous individuals. Commission staff responded to each of these complaints and, when appropriate, made referrals to the proper authority. Grievances concerning whom the Commission has no jurisdiction are not included in the total of grievances received.

B. Grievance Dispositions

In 2024 the Commission resolved 622 requests for investigation concerning 373 judges.

2024 CASELOAD	
Grievances pending on 1/1/2024	328
New grievances received in 2024	530
Grievances concluded in 2024	622
Grievances pending on 12/31/2024	236

1. Closed without Action

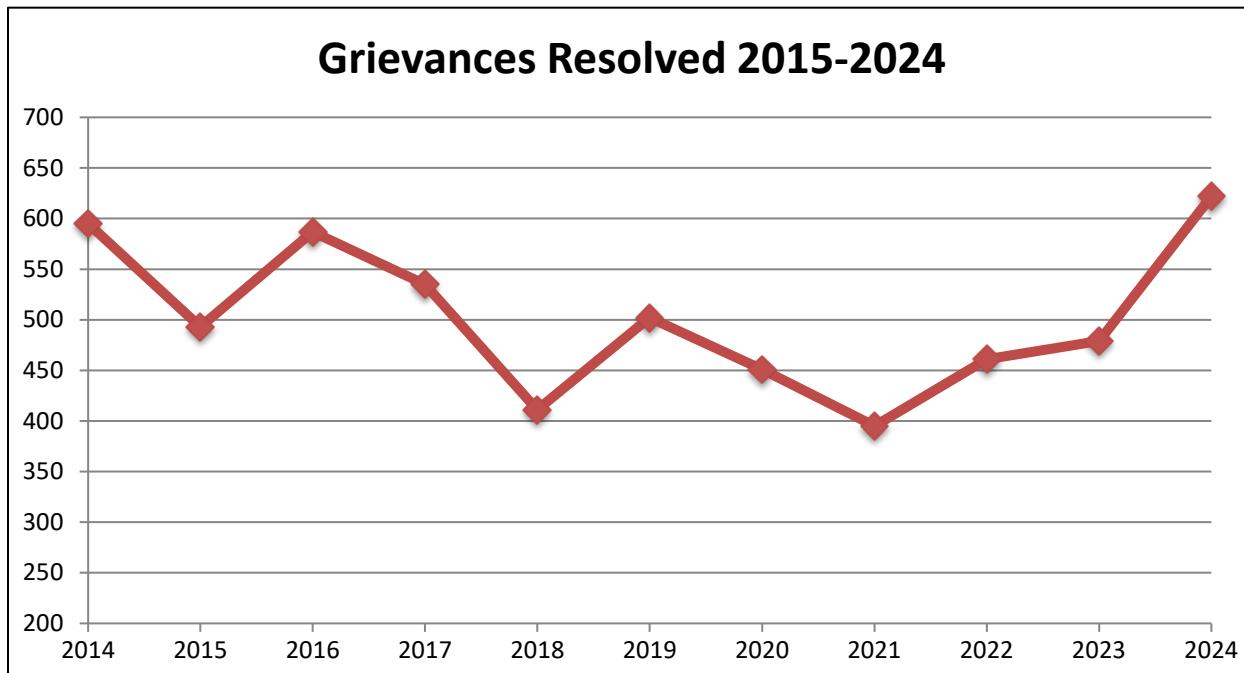
In 586 of the 622 grievances resolved in 2024, the evidence did not demonstrate misconduct after the information necessary to evaluate the grievance was obtained and reviewed. In other words, either these files alleged facts that would not constitute misconduct even if true, or investigation showed the allegations were unfounded or unprovable, or the judge gave an adequate explanation of the situation, or the judge left office.

2. Closed with Private Action

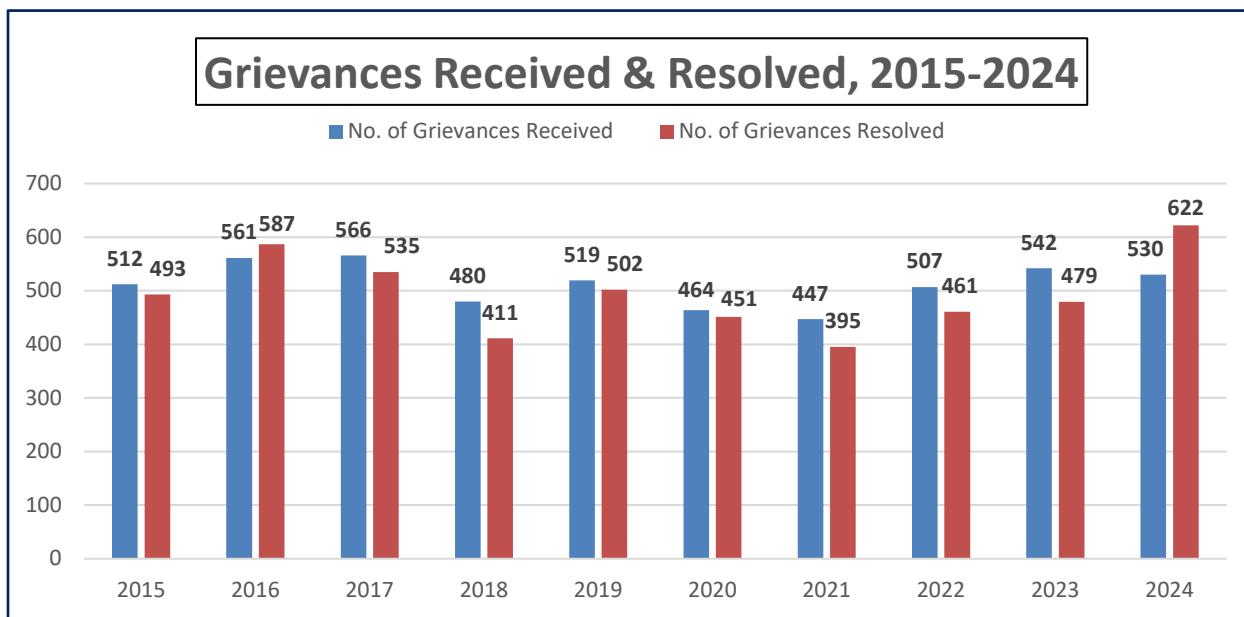
The Commission issued nine admonitions, twelve cautions, and four explanatory letters in 2024 that resolved a total of thirty requests for investigation. These resolutions are summarized in Section V.

3. Public Action

The Commission filed no public complaints in 2024. There were three pending public complaints at the close of 2024 that were filed before 2023. They are summarized in Section V.



The number of grievances received by the Commission has been fairly constant for more than the last decade, with the exception of unexplained drops in 2018 and 2021. The number of grievances resolved was also fairly constant for many years, until an unexplained increase in the number of complex investigations that began in 2017 and has continued, coupled with limited staff resources, appreciably slowed the resolution of investigations from 2018 through 2023 and resulted in an excessive backlog. In the last two budget sessions the legislature provided the Commission with funding to hire staff to reduce that backlog, and the results are now being felt.

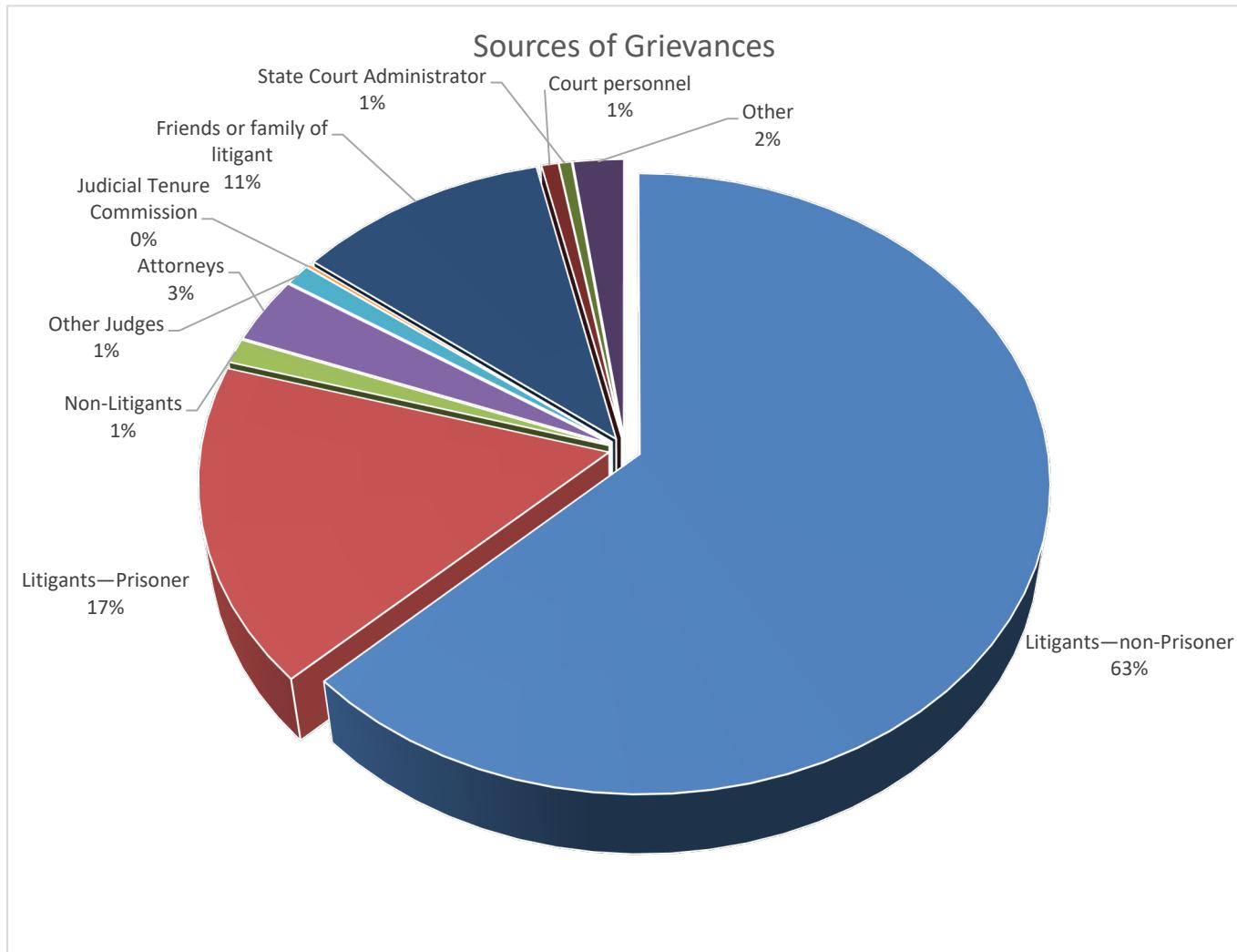


C. Analysis of Grievances Considered in 2024

The grievances received and resolved by the Commission derived from the following sources, covered the following subject matters, were lodged against the following types of judges, and were resolved as follows. The totals may not equal 530 grievances received (section IIIA) or 622 resolved (section IIIB), because some grievances allege more than one type of misconduct and some resolutions concern more than one grievance.

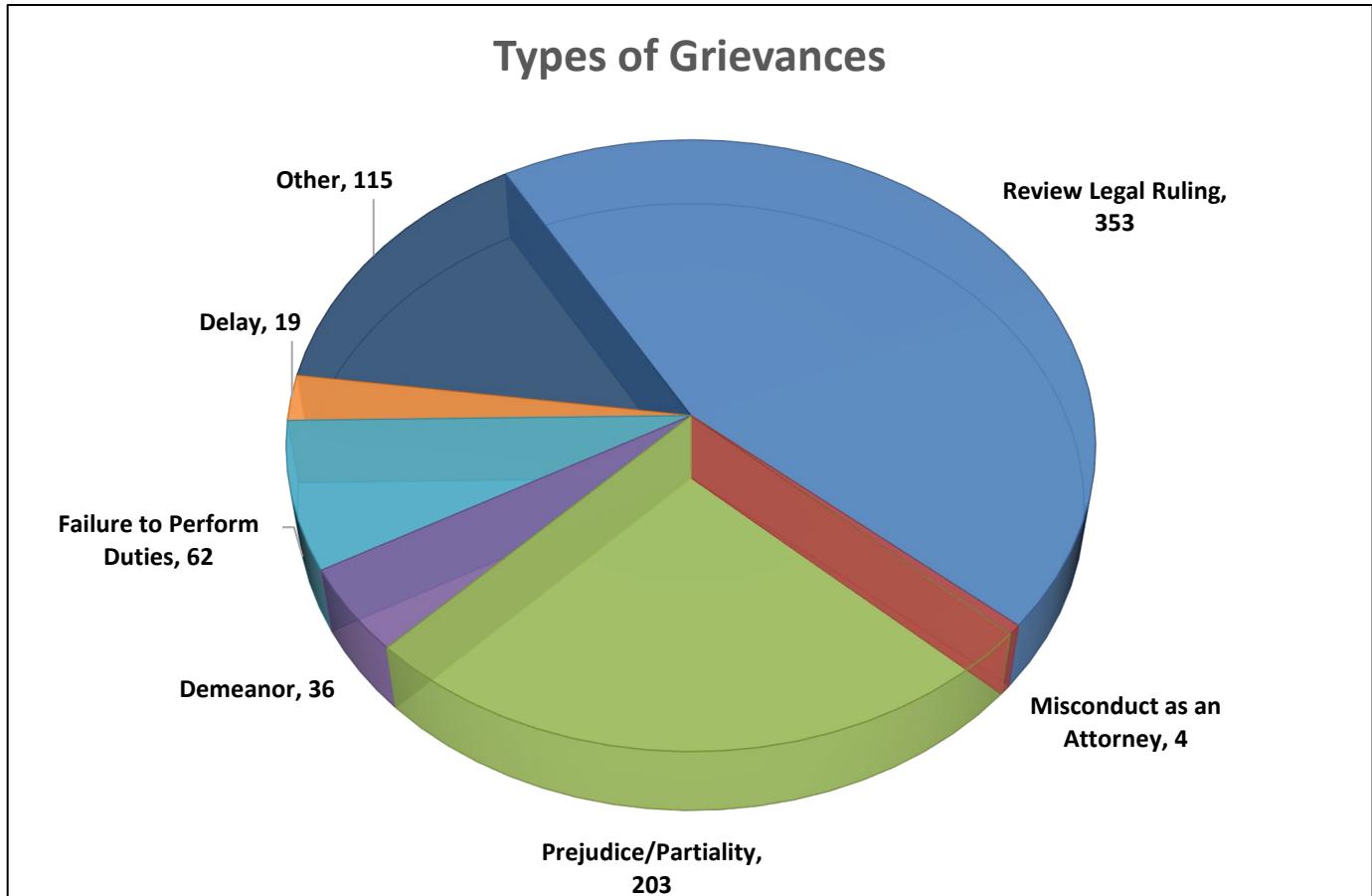
1. Sources of Requests for Investigation

Litigants, acquaintances of litigants, and prisoners filed 91% of the total requests for investigation.



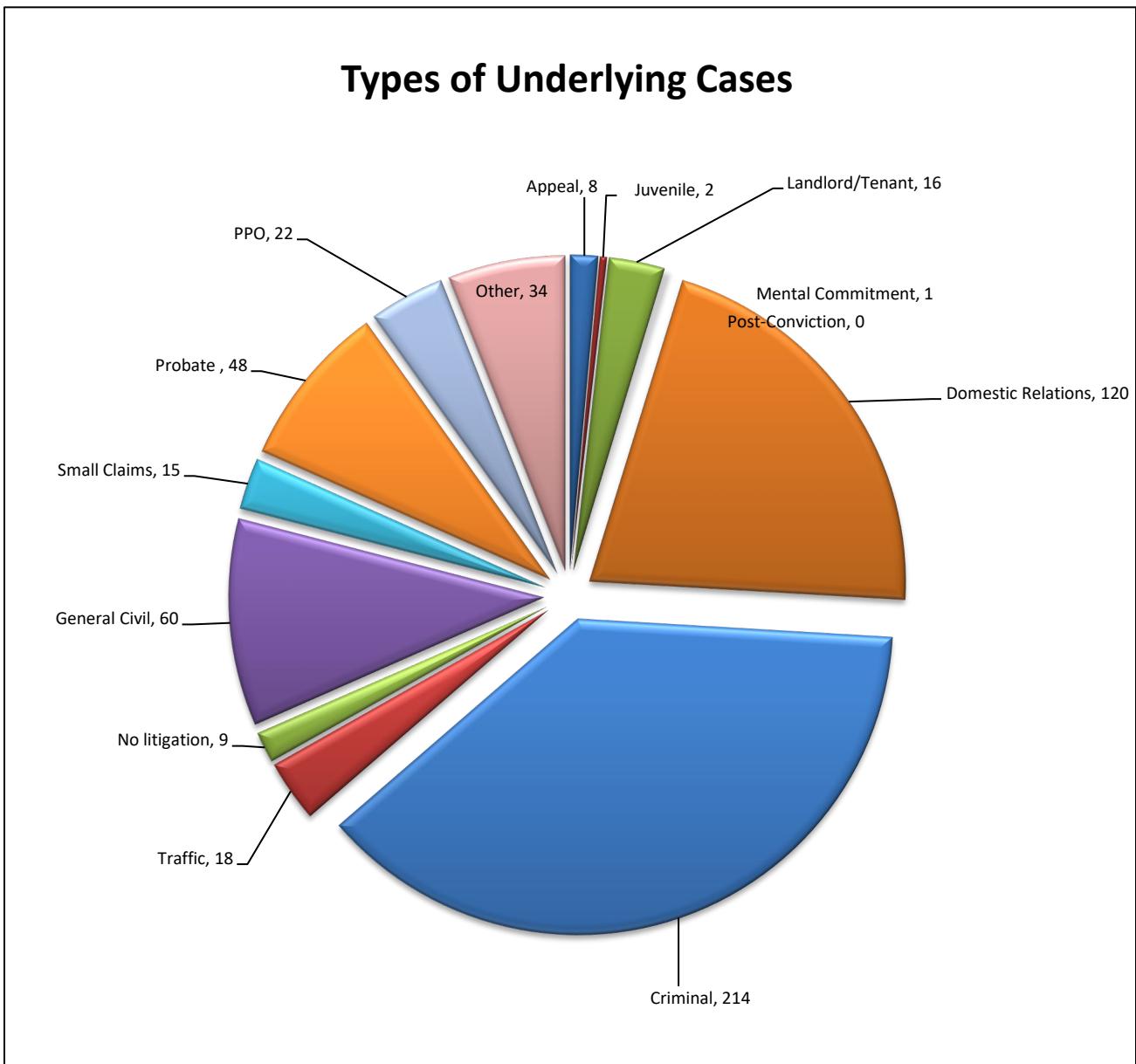
2. Subject Matter of Grievances

About two thirds of the 2024 requests for investigation sought to have the Commission review the merits of the underlying case. Since the Commission has no authority to act as an appellate court, those matters were dismissed unless they also included evidence of judicial misconduct. Another 38% alleged that the judge was biased, though often the only evidence of bias was that the grievant disagreed with the judge's ruling.



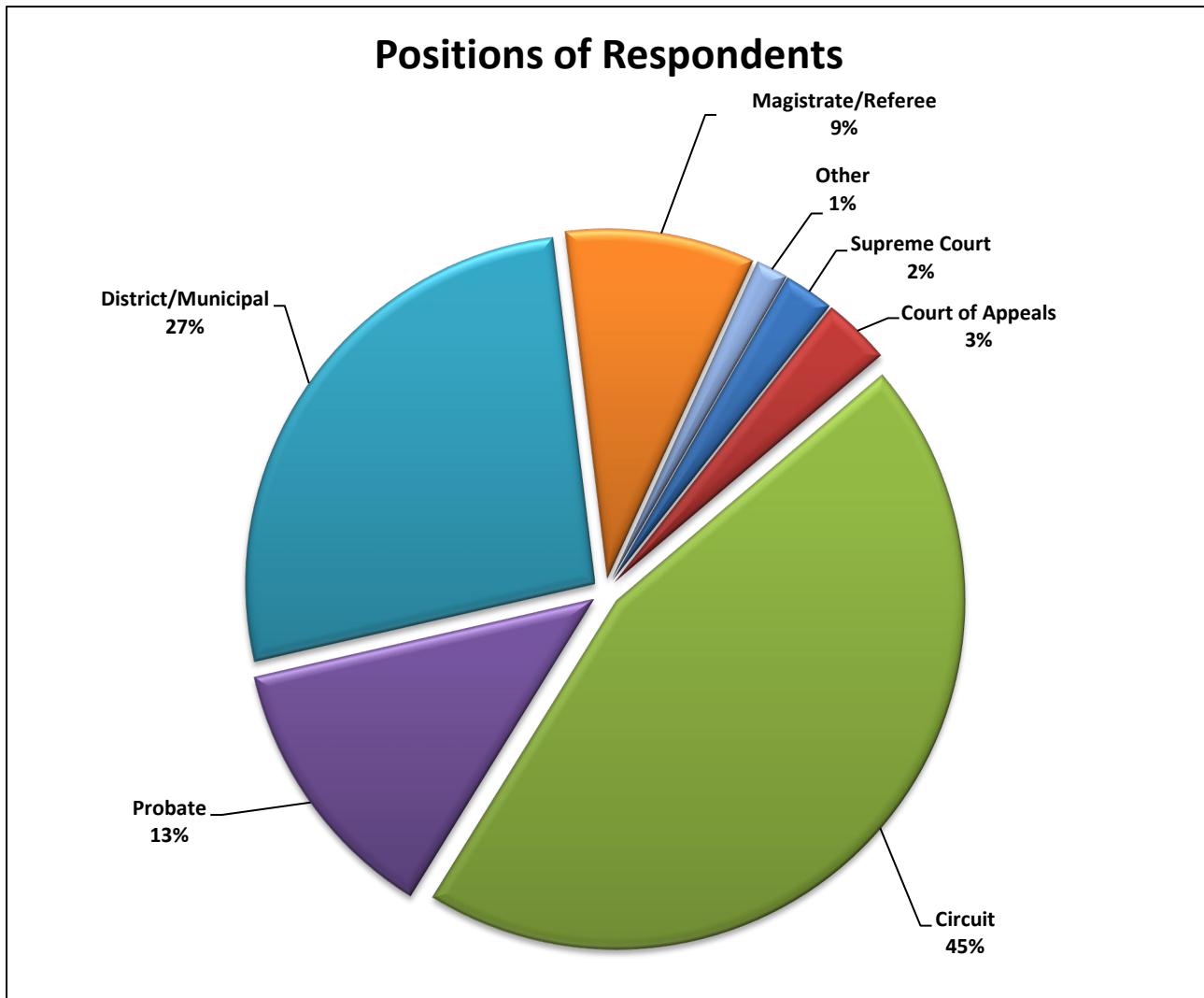
3. Nature of Underlying Litigation

Criminal cases, domestic relations matters, and general civil cases most commonly resulted in grievances in 2024. Those cases combined made up 74% of the 2024 requests for investigation. Probate cases resulted in another 9% of requests for investigation.



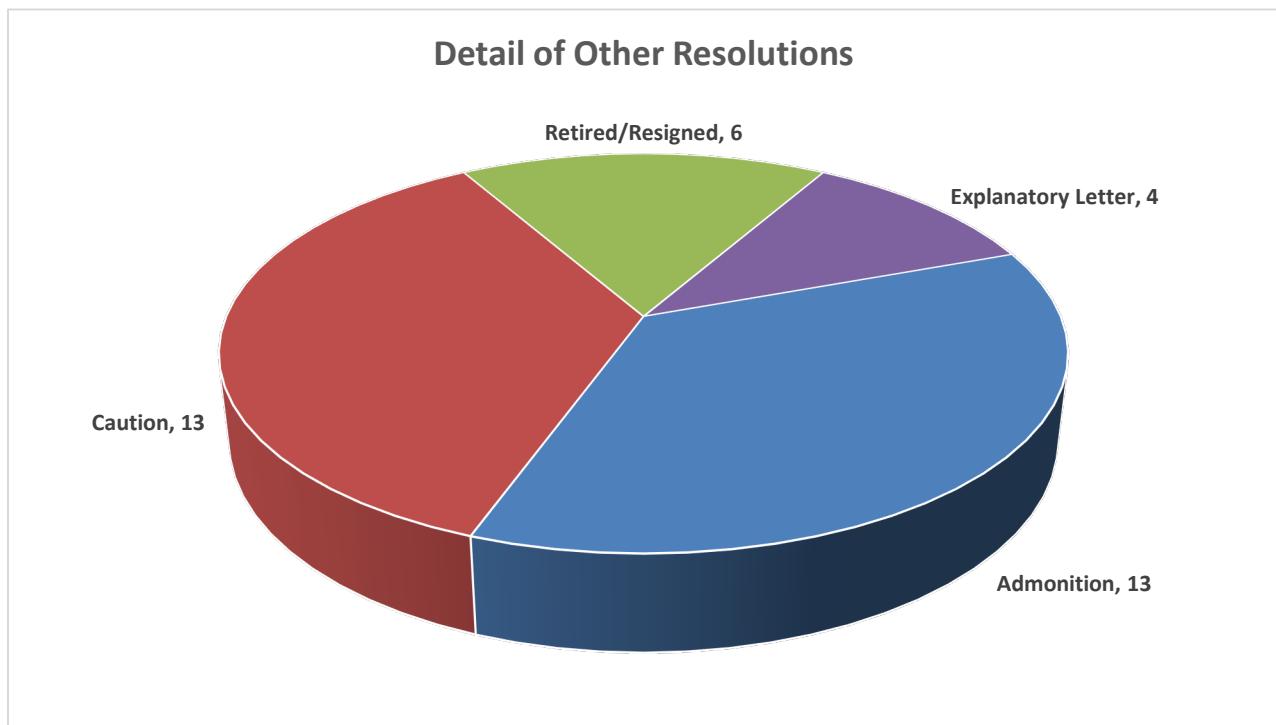
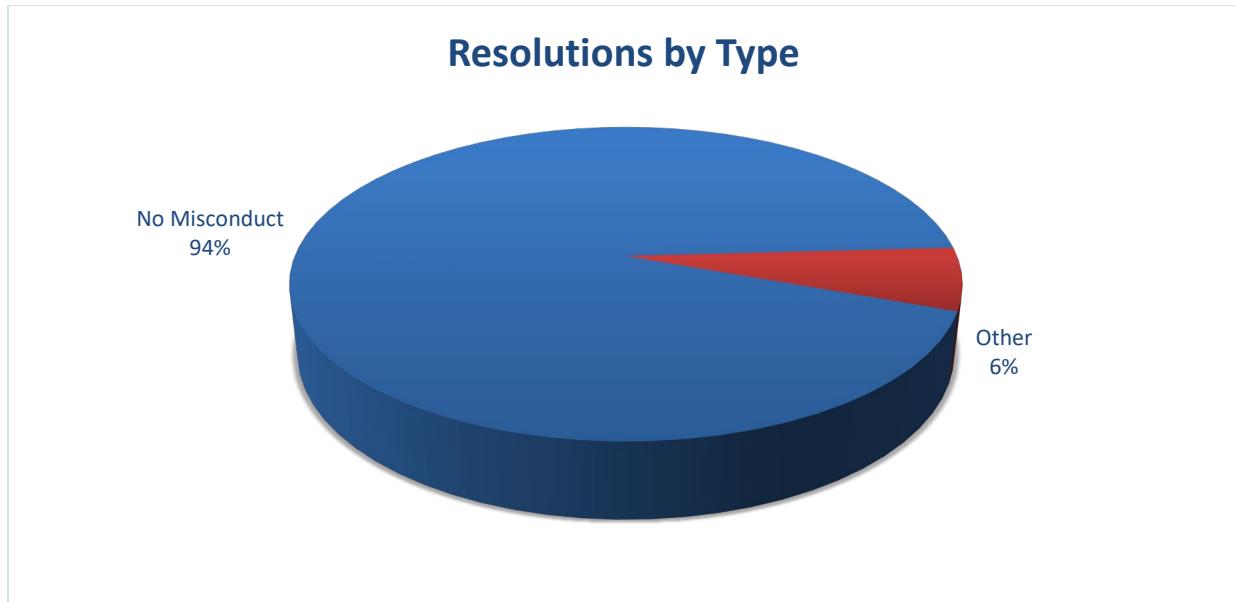
4. Positions of Respondents

Circuit court judges, who comprise less than a fifth of the judiciary, were the subject of almost half of the grievances filed in 2024. This is most likely due to circuit judges handling so much of the criminal and domestic relations dockets, which together generated about 63% of the grievances. District court judges, who comprise about another fifth of the judiciary, were the subject of about 27% of the grievances filed. The category “Other” includes retired judges from all courts.



5. Summary of Resolutions

The Commission filed three public complaints in 2022, two of which remained pending at the end of 2024. The Commission resolved another 30 investigations through letters of explanation, caution or admonition in 2024. The remaining grievances were resolved by dismissal, including those against judges who resigned or retired while under investigation.



IV. RACIAL EQUITY ANALYSIS

In 2023 the Commission announced that it was seeking an independent review of the racial composition of the judges about whom the Commission receives complaints, and the Commission's disposition of those complaints, for the period 2008-2022. The Commission's decision was prompted by concerns raised by the Association of Black Judges of Michigan that were based on the racial composition of the public complaints issued by the Commission.

In early 2024, the National Center for State Courts (NCSC) contracted with the State Court Administrative Office and the Commission to perform a racial equity analysis of the Commission's process. The first phase of the assessment consisted of a statistical review of key decision points and outcomes in the grievance process to identify whether statistically significant racial disparities existed in the judicial discipline process during the period 2008-2022.

The Commission released the NCSC's interim report in August 2024. The interim report found statistically significant racial disparities in three parts of the process. Other than to identify the disparities, the interim report made no effort to determine the causes of the disparities. The Commission announced that the NCSC review would continue in an effort to determine the causes of the disparities, including whether any disparities were the product of bias. The NCSC review is tentatively scheduled to be completed in July 2025.

V. CASE SUMMARIES

A. Public Proceedings and Resolutions

FC No. 104, Hon. Paul J. Cusick – 3rd Circuit Court (Wayne County)

The Commission issued a public complaint against Hon. Paul Cusick in November 2022. The complaint alleged that while Judge Cusick was an assistant attorney general with the Michigan Department of Attorney General, before he became a judge, he suborned perjury, failed to disclose exculpatory information he had a duty to disclose, and obstructed defense counsel's efforts to learn about the exculpatory information in marijuana prosecutions. The complaint also charged that Judge Cusick made misrepresentations to the Commission during its investigation.

In December 2022 the Michigan Supreme Court appointed retired Ingham County Circuit Court Judge Peter Houk as master. Judge Cusick answered the complaint, and the master conducted a hearing in May and June 2023. In August 2023 the master submitted a report to the Commission that recommended finding no misconduct.

The Commission held oral arguments in January 2024. In February of 2024 a majority of the Commission agreed with the master that there was no misconduct and

dismissed the complaint. Two Commissioners dissented and would have found that Judge Cusick committed misconduct as charged in count III of the complaint.

FC No. 105, Hon. Demetria Brue – 36th District Court (Detroit)

The Commission issued a public complaint against Hon. Demetria Brue in November 2022. The complaint alleges that while interacting with the proprietor of a bicycle rental business on Mackinac Island Judge Brue abused her judicial position, falsely told the police that the proprietor assaulted her, then made false statements to the Commission about the incident and her actions. Judge Brue answered the complaint in December 2022.

FC 106, addressed below, arises out of the same incident that led to the Commission issuing this complaint.

In March 2023 the Supreme Court appointed Hon. Alexander Lipsey to serve as master. Disciplinary counsel filed a motion to consolidate the hearings in FC 105 and FC 106, which the master denied in November 2023.

The same day the master denied the motion to consolidate the hearings in FC 105 and FC 106, he granted Judge Brue's motion to stay the proceedings in FC 105 until completion of the review of the Commission's dispositions that is discussed in Section IV, above. In December 2023 disciplinary counsel filed a motion to reconsider the master's decisions regarding consolidation and the stay, which the master denied in January 2024. The stay remained in effect throughout 2024.

On October 16, 2024, disciplinary counsel filed a motion to coordinate hearings in both FC 105 and FC 106. As of the end of 2024 the master had not ruled on that motion, the stay remained in effect, and no date had been set for the public hearing.

FC No. 106, Hon. Debra Nance – 46th District Court (Southfield)

The Commission issued a public complaint against Hon. Debra Nance in December 2022. The complaint alleges that Judge Nance accompanied Hon. Demetria Brue at the Mackinac Island bicycle rental business as described in the summary of FC 105, and when the Commission questioned Judge Nance about the events pertaining to the bicycle rental, Judge Nance knowingly made several false statements while under oath.

In March 2023 the Supreme Court appointed Hon. Alexander Lipsey to be the master.

In November 2023 the master stayed Judge Nance's proceedings as he had stayed the parallel proceedings in FC 105. The master also granted Judge Nance's motion to bar consolidation of the public hearing in FC 106 with the public hearing in FC 105 and denied disciplinary counsel's motion to consolidate.

In December 2023 disciplinary counsel filed a motion to reconsider the master's decisions regarding consolidation and the stay. The master denied the motion to reconsider in January 2024.

In May 2024 the master recommended that the Commission dismiss or withdraw FC 106. Following briefing by disciplinary counsel and Judge Nance, in September 2024 the Commission rejected the master's recommendation to dismiss FC 106. The Commission further rejected the master's decision to stay the proceedings in FC 106 until completion of the NCSC review and directed the master to commence the public hearing in FC 106 in February 2025.

In November 2024, Judge Nance filed a motion in limine requesting, among other things, that the master strike all witnesses from disciplinary counsel's witness list on the ground that none were present when Judge Nance made her allegedly false statements. As of the end of 2024 the master had not ruled on that motion.

In December 2024 Judge Nance filed a Motion for Adjournment Pending an MCR 9.241 Hearing before the Commission and another Motion for Stay Pending Review of the JTC Audit. As of the end of 2024 the master had not ruled on either of those motions.

B. NON-PUBLIC PROCEEDINGS

1. Conduct on the Bench

a. Failure to be Faithful to the Law & Demeanor

During a plea hearing, defense counsel attempted to make a record of comments the judge allegedly made off the record. Counsel asserted that the judge threatened that if the defendant went to trial and was convicted, the judge would remand them until sentencing. The judge responded: "I didn't threaten, counsel. I said if [they are] convicted, [they] would be generally remanded in this building, every judge does that."

A criminal defendant has a due process right to a jury trial and may not be punished for exercising that right. In the same vein, a judge may not coerce a criminal defendant to plead guilty. The judge's comment that if the defendant was convicted after a jury trial they would "generally" be remanded, with no mention of any comparable risk for pleading guilty, and with no mention of the actual standards that would govern the defendant's post-conviction release, could only be heard by a defendant as an assertion that they would be punished for going to trial if convicted. The Commission found this was a violation of basic due process and a violation of Canon 3(A)(1)'s requirement that the judge be faithful to the law.

In a separate criminal matter, the judge presided over an appeal of a bond imposed by a district court judge. Without the benefit of the transcript of the bond hearing or a response from defense counsel, the judge increased the bond from \$25,000 to \$500,000. Other than a conclusory statement that the district court abused its discretion, the

judge's order did not state how the district court abused its discretion and did not provide any reasons why the bond amount was modified or why additional conditions were imposed, all in violation of MCR 6.106.

Prior to the judge's decision, at least three appellate decisions had reversed the judge's prior bond modification orders. Two of those reversals reminded the judge of the need to make appropriate factual findings on the record before modifying bond.

The Commission determined that the judge's repeated failure to comply with the fundamental requirements of the bond rules reflected a pattern of indifference to or disregard of them and, therefore, of not being faithful to the law in violation of Canon 3(A)(1). The Commission cautioned the judge for not being faithful to the law in both criminal matters.

Defense counsel alleged that during a criminal proceeding the judge indicated that if the defendant demanded a hearing on a probation violation charge, he would get a harsher sentence than the plea offer. Such a comment would impermissibly chill a defendant's fundamental right to having a hearing or trial before being convicted of charges.

The judge's statement was made off the record and there was a dispute about whether the judge said the defendant *would* or *could* get a harsher penalty. The former would wrongly coerce a defendant while the latter would be a permissible way to ensure that the defendant was aware of the consequences of their choice. Although the evidence was unclear, there was other evidence that the judge created the perception with lawyers in other cases that a defendant would receive a harsher penalty if opting for a trial or hearing rather than accepting a plea.

The Commission issued an explanation to make the judge aware that the perception exists that the judge punishes defendants for going to trial, and to stress the importance of not creating that impression in criminal defendants, even inadvertently.

A judge changed a child custody order without holding an evidentiary hearing or making the proper findings on the record. Specifically, the judge dispensed with oral arguments, did not take any testimony or allow the presentation of evidence, and imposed a temporary order that effectively changed custody. These actions violated the litigants' due process rights provided in MCL 722.27(1)(c) (the Child Custody Act), which requires a court to make a finding that a change in the custodial environment is in the child's best interest before making such a change. Precedent requires that an evidentiary hearing be held before custody can be changed, even on a temporary basis.

During the Commission's investigation, the judge claimed that the reason they did not hold an evidentiary hearing was due to scheduling issues and having a full docket that morning. While the Commission acknowledged the rationale of a busy schedule, the Commission noted that the judge could have taken different steps to deal with the situation in lieu of violating the rights of the litigant and disregarding the law in violation of Canon 3(A)(1), which requires that a judicial officer be faithful to the law and competent in it.

The Commission cautioned the judge, acknowledging that the case took place several years ago.

The Commission investigated an allegation that judges in a district court threatened and/or assessed costs to discourage trials of ordinance and misdemeanor cases. The investigation did not show that the judges unlawfully imposed costs for proceeding to trial, but it showed that they told defendants at a final pretrial conference, for the first time, that "additional" court costs could be assessed against them if they pled guilty *after* the final pretrial conference. Such a procedure could put sudden pressure on defendants to plead guilty at that hearing, perhaps with little time to consider the plea offer. While judges have a legitimate interest in ensuring that defendants are aware of costs, that information should be presented in a manner that does not reinforce coercion of a plea, even unintentionally.

The Commission dismissed the complaint but encouraged the chief judge to set a policy as to when defendants are notified about assessment of "additional costs" that will ensure the court's transparency in calculating court costs and avoid the appearance of coercion. For example, providing the parties such a calendar at the beginning of the case would reduce any appearance that costs are being used to pressure defendants to plead guilty and would give defendants adequate time to reflect on whether to take a fully informed plea offer.

At the end of a pretrial hearing in a criminal case being held over Zoom, the defendant stood up and said something to the effect of "y'all are straight bullshit" and "suck my dick" as the hearing was ending. The judge did not hold the defendant in contempt at that time. At the next pretrial hearing, several months later, the judge held the defendant in contempt of court for the prior incident and took the sentencing under advisement.

The Commission noted that under long-standing law, summary contempt punishment should be reserved for conduct that is "an open threat to the orderly procedure of the court and such a flagrant defiance of the person and presence of the judge before the public' that, if 'not instantly suppressed and punished, demoralization of the court's authority will follow.'" *In re Oliver*, 333 US 257, 275 (1948), quoting *Cooke v United States*, 267 US 517, 536 (1925).

An implication of the fact that direct contempt is to address conduct that must be corrected “instantly” is that “[w]hen a court defers consideration of contempt until the conclusion of the trial,” the contempt is no longer “direct” and “another judge must consider the charges.” *In re Contempt of Henry*, 282 Mich App 656, 676 (2009), citing *In re Contempt of Scharg*, 207 Mich App 438, 440 (1994).

The judge candidly acknowledged that they had not researched the law on contempt prior to issuing the contempt order. The Commission noted that the logistics of holding the defendant in contempt at the end of a Zoom hearing were more difficult and the law is unclear on whether the rule about immediately finding contempt is applied the same way in remote proceedings.

Taking the judge’s candor and the uncertainty of applying contempt to Zoom proceedings into account, the Commission dismissed pursuant to MCR 9.223(A)(2) with a letter of explanation about the importance of understanding the law of contempt.

b. Lack of courtesy and respect

A judge referred to a defendant as a “clown” while on the record during a Zoom arraignment on a misdemeanor case. The judge took full responsibility for their actions and acknowledged that their statement was not becoming of a judicial officer and reflected negatively to the public as well as court staff. The judge stated that they allowed their frustration with the defendant to get the better of them.

The Commission determined that the judge’s statement violated Canon 3(A)(3), which provides that a judge is to be patient, dignified, and courteous to those with whom they deal in an official capacity, and Canon 3(A)(14), which requires a judge to treat every person with courtesy and respect.

The Commission determined that a caution was appropriate since the judge took full responsibility for their misstep. The Commission also considered the judge’s otherwise exemplary record. The caution encouraged the judge to be mindful of their words and statements to litigants and of the need to be courteous.

During a hearing to terminate a PPO, a judge made disparaging remarks about litigants. These comments included that the litigants were paranoid schizophrenic (without supporting medical evidence), that they had “issues,” that they were ridiculous, and that they were the laughingstock of the local township hall and their county.

The judge candidly acknowledged that their conduct violated the canons and recognized that they should have disqualified themselves prior to the hearing because of their biases.

Because the judge was near retirement, the Commission cautioned the judge in accordance with MCR 9.223(A)(2) for violations of Canon 3(A)(14), which requires that judges treat litigants with courtesy and respect, and Canon 3(A)(3), which requires that judges be patient, dignified, and courteous to litigants. The Commission also cautioned the judge for undercutting the public's faith in their impartiality in violation of Canon 2(B).

c. Ex parte communication

A judge had ex parte communications with the prosecuting attorney in violation of Canon 3(A)(4), which gave rise to an appearance of partiality towards the prosecutor's office in violation of Canons 2(A) and 2(B).

The judge sent several case-related emails to members of the prosecutor's office over four years, complimenting the work of an attorney, sharing personal feelings about cases, and critiquing the quality of the investigation, all while trials were ongoing. Defense counsel were not included in the emails or notified of them after the fact.

The judge suggested that these communications were permissible under the "administrative" exception to Canon 3(A)(4), but the Commission disagreed. The Commission noted that Canon 3(A)(4) prohibits all ex parte communications during the pendency of a case (which includes the appeal process) whether or not the communications are about the substance of the case, with narrow exceptions that are triggered only when the other side cannot be a part of the conversation. Further, the judge acknowledged that even if the emails came within an exception to the ex parte rule, the judge failed to notify defense counsel about the communications "promptly," as required by the exceptions.

The judge informed the Commission that they have taken measures to prevent any future ex parte communications during a pending case, and if they occur to place them on the record promptly with both parties present.

The Commission concluded that the judge did not intend to confer any advantage on the prosecutor by any of the emails. However, the Commission noted that the canons are concerned with the appearance of impropriety and public faith in the impartiality of the judiciary, both of which depend on perception. The judge's private comments to members of the prosecutor's office while cases were pending suggested that the judge had a special relationship with the prosecutor's office or a special interest in its success. The Commission said those communications are not appropriate for a judge who is supposed to be a neutral and detached arbiter of the work of the prosecutor's office, especially since the judge was a former member of that office. A criminal defendant who appears before the judge, aware of the judge's ongoing relationship with and feelings for the prosecutor's office, would reasonably be concerned about whether they will receive a fair hearing.

The Commission cautioned the judge to avoid even the appearance of bias in the future.

d. Delay

A judge presided over a guardianship case involving a minor child. The child's mother petitioned to terminate the guardianship in June 2019. The judge did not enter an order denying the petition until May 2023, nearly four years later. Though much of the delay was attributable to the COVID pandemic, the parties' attempts at mediation, and the length of the trial, Commission found that the judge also contributed to the delay by failing to rule on the petition to terminate guardianship for four months after it was submitted and then waiting more than four more months to deny the mother's motion for reconsideration.

In addition, MCR 8.107(B) requires judges to send a quarterly report to SCAO of all pending matters not decided within 56 days of submission. The judge never reported these matters to SCAO due to a misunderstanding of this court rule.

The Commission cautioned the judge for violating Canon 3(A)(5), which requires a judge to promptly dispose of the business of the court. The Commission acknowledged that standing on their own and outside the context of this case, none of these delays might have been a violation of Canon 3(A)(5) in the abstract. However, these delays occurred with respect to a petition concerning a child that was pending for nearly four years and that acted to the potential detriment of the mother who was seeking to end the guardianship and created uncertainty for the child and the guardian.

A judge was assigned to preside over a habeas corpus motion. MCR 3.303(Q) states that the court shall promptly hear writs of habeas corpus "in a summary manner and enter judgment." MCR 8.107(A) requires that a judge decide matters within 35 days after submission. Despite the petitioner contacting the court four times seeking to have the matter heard, the judge did not issue an order on the writ until more than nine months after the last substantive submission and after receiving the Commission's request for comments. Additionally, the judge did not report the case as a delayed matter to SCAO even though they did not rule on the motion for more than 56 days after submission.

The judge explained that the delay was inadvertent and was the result, in part, of presiding over large dockets in two counties. Nonetheless, by not issuing a decision for more than nine months, the judge did not promptly dispose of the matter as required by Canon 3(A)(5).

The Commission found that the judge did not disregard or intentionally violate the reporting requirement as they relied on existing procedures and on their court staff to comply with the requirement.

The Commission considered that the judge had no prior history of corrective action, promptly ruled once the Commission inquired, candidly acknowledged that they did not comply with the court rules, was taking steps to ensure that such a delay does not occur again, and was reviewing their processes with respect to submitting delay

reports to SCAO. The Commission cautioned the judge to not let matters become excessively delayed in the future and, if they do become delayed, to report them to SCAO as required.

A judge had been cautioned within the past two years for excessive delay in deciding matters submitted to the court in violation of Canon 3(A)(5). At that time, the judge put in place certain measures to stay current and was to notify the Commission if they were having trouble staying current.

Following the earlier caution, a new grievance alleging delay with respect to a motion for relief from judgment was filed. The case that was the subject of that grievance had been pending for several years but had not been mentioned on the judge's delay reports to SCAO. It was also determined that the judge had additional motions for relief from judgment that were excessively delayed, but the judge had not notified the Commission of them when the Commission asked about other delayed cases that were on the judge's docket.

When asked about these delayed cases, the judge stated that they were not aware that motions for relief from judgment had the same 56-day standard that other matters had. The judge further stated that these matters were just a lower priority for the judge.

Because the judge was only months from retirement, the Commission admonished the judge in accordance with MCR 9.223(A)(4) for delay in violation of Canon 3(A)(5).

e. Appearance of impropriety

A judge signed two search warrants. The affidavits that supported the warrants included information from several law enforcement officers, including the judge's spouse. At the time, an unwritten court policy prohibited the judge from issuing search warrants if the spouse was the affiant, but did not address a situation in which the spouse merely provided information that was referenced in the affidavit.

The Commission determined that the judge had acted in good faith and in accordance with their understanding of the court's unwritten policy, and that any future ambiguity with respect to matters in which the judge's spouse played a part had been resolved by a new conflict of interest policy.

The Commission cautioned the judge that signing search warrants in which the supporting affidavits contained references to the investigative activities of a spouse created an appearance of impropriety and tended to undermine public confidence in the judiciary, contrary to Canons 2(A) and (B). In addition, because of the spouse's role in the case, MCR 2.003(C)(1)(b)(ii) and (g)(iv) required the judge's recusal.

During a resentencing, a judge made negative comments about the Michigan Supreme Court's decision regarding the sentencing of juvenile offenders and the prosecutor's decision not to pursue a hearing to obtain a harsher sentence than the judge otherwise was limited to imposing. The judge's comments unnecessarily called into question the quality of the judiciary and the prosecutor's office. Recognizing the judge's First Amendment rights and the fact that the judge made their comments while ruling on a motion, the Commission did not find misconduct. Two Commissioners nonetheless met with the judge, who readily acknowledged that the comments were better left unsaid and acknowledged the responsibility to treat others respectfully and not undermine the public faith in the integrity and impartiality of the judiciary.

The Commission dismissed with no other action.

f. Failure to be faithful to the law and lack of courtesy and respect.

A judge presided over a guardianship matter. During a hearing, the judge accused the petitioner of having 16 felony convictions, which the petitioner denied. Rather than hear from the petitioner regarding the purported convictions or allow them to explain their position, the judge interrupted and disregarded what the petitioner was trying to say. The judge then told the petitioner to be quiet, adding "I'm going to tell you one more time to be quiet and then I'm going to hold you in contempt." The petitioner was quiet after the judge told them to be. Although the judge had earlier told the petitioner to file an affidavit to demonstrate that they did not have felonies, the judge then denied the petition before the petitioner had a meaningful opportunity to file the affidavit. The Commission determined that the judge's disregard of the petitioner's attempts to explain that they did not have any felony convictions violated Canons 3(A)(3), requiring a judge to be patient and courteous to litigants, and 3(A)(14), stating that a judge should treat every person fairly, with courtesy and respect.

The petitioner left the podium and stood by the public doorway of the courtroom, talking to themselves and not appearing to direct any comments toward the judge. The courtroom was otherwise quiet, and the judge was not conducting another proceeding. Within seconds of the petitioner going to the back of the courtroom, the judge sharply told them to "get up here," incorrectly stating that they had been told "multiple times" to be quiet, yet they were "still back there running [their] mouth." On this basis, the judge held the petitioner in direct contempt for violating a "court order" and sentenced them to three days in jail.

Acknowledging a judge's authority to exercise control over a courtroom, the Commission was nevertheless concerned by the swiftness with which the judge resorted to incarcerating the petitioner under these circumstances. The Commission believed that the judge so overreacted to the situation and so disregarded the limits of their authority to find someone in contempt that the judge violated Canon 3(A)(1), which requires a judge to be faithful to the law. The Commission cautioned the judge to be more judicious and use contempt power with the utmost restraint in the future.

A judge lost their temper and behaved discourteously in the courtroom on several occasions in violation of Canons 2(B), 3(A)(13) and 3(A)(14) by acting belligerently and using intemperate language toward litigants. The judge often allowed their emotions to govern what they said in the courtroom and the tone of voice they used to say it.

For example, after a series of delays in a civil case, counsel frustrated the judge by equivocating about whether they had reached a settlement while a jury was waiting. Eventually the judge lost their patience and yelled, “Jesus Christ! Get the jury up here!” Then the judge took off their glasses and threw them down.

In another matter, the judge twice commanded the defendant to “shut [his] mouth” when they were trying to excuse their probation violations.

The judge made the same statement to another defendant’s mother when the mother interrupted the judge during their child’s bond violation hearing. During that same hearing, the judge told the defendant in a loud and angry voice, “you’re probably a rapist and you’re for certain a liar. You’re going to be the one with the bowel problems.”

During a probation violation hearing, the judge’s voice got louder and louder until they were screaming at the defendant. At another probation violation hearing, the judge said, “will you stop talking?” to the defendant’s mother in an inappropriately loud and angry voice. The judge often commanded people to “stop talking” in harsh tones, rather than reminding them civilly that they were speaking out of turn or that their time for argument was over.

Although the judge acknowledged that their conduct violated Canons 3(A)(3) and 3(A)(14), they nonetheless defended certain of their statements and suggested that they were justifiably angry and thus that their undignified comments were provoked.

Each of the above incidents reflected a lack of judicial civility. A judge is not excused from complying with the “respect” canons (Canons 3(A)(3) and 3(A)(14)) when someone in the courtroom annoys the judge or when the judge’s tolerance for discussion has reached its limit. When they fail to adhere to the respect standard they erode public confidence in the judiciary, contrary to Canon 2(A).

In addition to the various incidents of discourteous conduct described above, the Commission also found that the judge exceeded their authority by requiring a defendant to sell their car as a condition of probation. Canon 3(A)(13) requires a judge to impose reasonable punishments and adopt the “usual and accepted methods of doing justice,” and there was no precedent or authority for the condition of probation the judge imposed.

The Commission also found that the judge ordered a litigant’s driver to come into the courtroom and prove that they had a driver’s license. The driver was not a party before the judge. The judge told the driver that their truck was going to remain in the parking lot, which was tantamount to a seizure of their property. Because the judge did not have jurisdiction over the driver, the judge did not have the authority to order them

into their courtroom, to require them to provide their driver's license, or to seize their truck. The Commission found that the judge was not faithful to the law in violation of Canon 3(A)(1).

The Commission cautioned the judge and required that the judge receive counseling for anger management and be monitored for a period of time.

A judge threatened to hold an attorney in contempt because they made a 15-minute error in their notice of hearing and because they did not rise immediately when the judge took the bench during a Zoom hearing. The judge's tone was aggressive and, with no apparent basis for doing so, the judge concluded that the attorney had a surly attitude. The judge acknowledged that their treatment of counsel violated Canons 2(A), 3(A)(3), and 3(A)(14) which require a judge to be patient, dignified, and courteous.

In addition, the Commission found that the judge created an unnecessary and inappropriate climate of fear for their court employees in violation of Canons 3(A)(3) and 3(A)(14), and they lacked insight into how others perceived their words and actions. For example, the judge yelled at an employee after the judge jumped to the conclusion, without evidence, that the employee gave an attorney permission to have their client appear without them for arraignment. Another court employee reported that the judge belittled her, made her feel stupid, and accused her of insubordination when she respectfully corrected errors that the judge made. The judge threatened to fire an employee though the judge lacked authority to do that, and harshly rebuked other employees to the point of tears.

On another occasion, the judge concluded without a basis that a magistrate refused to cover for them, in response to which the judge sent an undignified and disrespectful text to the magistrate.

There were also several occasions when the judge lost their temper or otherwise behaved discourteously while presiding over cases. For example, a defendant did not appear personally for a plea hearing because they were too sick to come to court and had been for several days. They appeared by Zoom instead. The judge loudly and aggressively led the defendant to acknowledge that they had not alerted their lawyer during each of the three days before their scheduled court appearance that they might be too sick to attend court on the day of the hearing. The judge loudly asked the defendant, "did it occur to you that you're inconveniencing everybody here with your lack of attention? ... Well what do you want me to do, issue a warrant for you for not being here and being so obnoxious with your behavior? Is that going to quell your selfishness? What's going to work for you ...?"

The Commission also found that while attending a conference with two of their court staff, the judge mistreated a hotel clerk who could not find a reservation. The judge

raised their voice to the clerk and threatened to report him to his boss, with words to the effect of “watch it buddy. You don’t know who you’re talking to.”

Finally, a person made a negative statement about the judge to a store clerk. The judge became aware of it and threatened to hold the speaker in contempt of court, despite having no authority to do so. The judge’s threat violated Canon 3(A)(1), which requires a judge to be faithful to the law and maintain professional competence in it.

The judge voluntarily sought and completed anger management classes and obtained therapy. The judge also devised a protocol to enable court staff and attorneys to alert the judge, without fear of retribution, when they believe the judge may have demeaned or intimidated staff, attorneys, litigants, or members of the public. The Commission dismissed with a caution.

g. Failure to be faithful to the law, lack of courtesy and respect, failure to avoid premature judgments, and loss of impartiality

During plea and sentencing hearings, a judge engaged in all of the following acts: unnecessarily raised their voice more than once at the victim; denigrated the victim and their family; injected irrelevant but emotional issues into the proceedings; made unsupported and inflammatory assumptions about the interaction between the victim, their family, and the defendant; did not allow the victim a fair opportunity to respond to their unfounded assumptions and attacks on the victim’s character; publicly denigrated the rulings of another court without knowing what the rulings were or what they were based on; and advised the defendant to retain counsel and fight the victim and their family with respect to a separate matter. The Commission found that the judge violated Canons 3(A)(3) and 3(A)(14) by treating the victim disrespectfully and unfairly, and by being undignified and discourteous. The Commission also found that the unsupported assumptions the judge made about the relationship between the victim and the defendant violated Canon 3(A)(12), which requires a judge to avoid premature judgments.

In a separate criminal matter, the judge screamed at a defendant to “shut up” at a probable cause conference and then yelled at the court officer to remove the defendant from the courtroom. Although the defendant had interrupted the judge on one occasion, the judge’s outburst breached courtroom decorum in violation of Canons 3(A)(3) and 3(A)(14). Further, comments the judge directed toward the defendant reflected that they had predetermined the defendant’s guilt before conducting the preliminary examination. This violated Canon 2(B)’s requirement that a judge’s conduct and manner should promote public confidence in the impartiality of the judiciary.

In a landlord-tenant matter, the judge made gratuitous and insulting comments to the landlord/attorney to the effect that they were bordering on being a slum landlord, even though there was no basis in the record for this statement. This violated Canons 3(A)(3) and 3(A)(14).

In another criminal case, the judge successfully encouraged an alleged victim of domestic violence, who appeared for trial, to leave before testifying. That exceeded the judge’s

authority and interfered in the case, thereby creating an impropriety and/or appearance of impropriety in violation of Canon 2(A). The judge also demonstrated a lack of impartiality in violation of Canon 2(B).

Lastly, the judge had a phone conversation with two employees of a different court, ostensibly concerning the handling of arraignments over a holiday. The judge screamed at the employees and repeatedly interrupted them. The Commission found that the judge's conduct toward the two court employees was disrespectful and discourteous in violation of Canons 2(B), 3(A)(3), and 3(A)(14).

The Commission acknowledged that several years had passed since the misconduct. Considering the time that passed but taking into account the judge's repeated acts of misconduct, the Commission admonished them to cease being demeaning, rude or impatient toward those who appear before them and those with whom they deal in any official capacity. The Commission further admonished the judge not to develop opinions or reach premature judgments about issues not before them, and to respect the limits of their authority as a judge. The Commission also imposed a monitoring condition.

h. Failure to be faithful to the law, lack of courtesy and respect, failure to avoid premature judgments and loss of impartiality

A judge in a social setting encountered an attorney who represented the defendant in a civil action over which the judge was presiding. The judge commented that the case "should have been over with."

The Commission concluded that even though the judge's comment might not have had an impact on the outcome of the case, it signaled that the judge was frustrated that the case was still ongoing, thus potentially pressuring the parties to settle. The Commission found that the judge-initiated communication with an attorney about a case outside the presence of all parties and their counsel violated Canon 3(A)(4), which prohibits a judge from initiating ex parte communications concerning a pending or impending proceeding.

In a separate landlord-tenant matter, the judge presided over an appeal from a district court's ruling in favor of the landlord. The judge reversed the ruling and made several troubling statements during a hearing, including that because the landlord had not filed a response to the appeal the judge did not review the file, the transcript, or the lower court decision.

The landlord then filed a motion for relief from judgment that the judge granted under MCR 2.612(C)(3), despite tenant's counsel pointing out that the landlord was required to file an independent action to obtain relief from judgment and citing appellate decisions for that position. The judge made several references to being a "court of equity" in justifying the decision to grant the landlord's motion notwithstanding the tenant's citations of law.

The Commission found that the judge disregarded the law in violation of Canon 3(A)(1). The judge was obligated to review of the lower court record before reversing that court, even if the landlord did not respond to the appeal. The judge's reliance on MCR 2.613(C)(3) was contrary to the plain wording of the rule and to appellate decisions. Lastly, "equity" is not an excuse to violate the court rules. Because of the judge's incomplete recognition that they violated the canons, and because of the judge's prior disciplinary history, the Commission admonished the judge.

i. Failure to be faithful to the law, ex parte communications and failure to report an attorney for unprofessional conduct

A judge had an improper ex parte communication through an intermediary about a criminal case over which they were presiding. Specifically, one of the judge's friends was also a friend of the defendant's mother. The judge intentionally conveyed a message to the defendant's mother, through their common friend, about how the defendant should navigate the case. The judge acknowledged that they should not have discussed the case with the friend. The judge denied that they intended for the friend to convey to the defendant and his mother the judge's opinion that the defendant should take a plea and should testify if the case went to trial.

The Commission found that the judge violated Canon 2(A), which requires a judge to avoid impropriety and the appearance of impropriety, and Canon 3(A)(4), which forbids a judge to initiate or permit ex parte communications.

In another case, the judge allowed a suspended attorney to practice law before them after being informed by opposing counsel that they were wrongfully doing so. The Commission found that the judge violated MRPC 5.5(a), which forbids assisting others in the unauthorized practice of law, and Canon 3(A)(1), which requires a judge to be faithful to and competent in the law. The judge did not report the suspended attorney or his wife, who filed pleadings in the case, to the State Bar for their unauthorized practice of law. The Commission found that this violated Canon 3(B)(3), which requires a judge to take or initiate appropriate disciplinary measures against a lawyer for unprofessional conduct of which the judge may become aware.

For these acts of misconduct, and the judge's history with the Commission from 2019 to the present which established that they did not always follow the court rules and canons, the Commission admonished the judge to take greater care to know and adhere to their obligations.

j. Failure to be faithful to the law and delay

A judge put off entering eviction orders in three landlord-tenant cases due to a clearly erroneous interpretation of the eviction moratorium ordered by the Centers for Disease Control, and in the process disregarded the attempts by the attorneys for the moving parties to correct, or at least to address, the judge's misunderstanding of that moratorium.

In one of the cases, the judge entered an order of eviction but then *sua sponte* stayed the order based on the CDC moratorium. But the moratorium only applied to evictions based on nonpayment of rent, and the basis for this eviction was unrelated to nonpayment of rent. The judge ignored several efforts by the landlord's attorney to get a hearing to obtain the order of eviction to which the landlord was entitled, and the judge also ignored the attorney's efforts to point out that the moratorium clearly did not apply. The judge adjourned hearing dates on the motion multiple times and ignored the attorney's communications with their clerk to obtain a hearing date. Disregarding the attorney's communications violated Canon 3(A)(14), which requires a judge to treat every person with courtesy and respect.

The judge similarly did not grant orders of eviction in two other cases in which the facts were also clearly outside the CDC moratorium and counsel had already alerted them to that fact by sending the judge a letter regarding a similarly situated case. In failing to address one of these cases for over six months and the other for about ten months, the judge deprived the plaintiffs of an opportunity to get a ruling from which they could appeal. The judge also failed to include these cases in their quarterly reports of delayed cases to SCAO.

The judge acknowledged some of their errors and pledged to do better in the future. The Commission admonished the judge for failing to follow the law in violation of Canon 3(A)(1), which requires a judge to be faithful to the law and maintain professional competence in it, and for failing to dispose promptly of the business of the court, in violation of Canon 3(A)(5).

k. Failure to be faithful to the law, appearance of impropriety, ex parte communications, and loss of impartiality

In a child protective proceeding, a judge had an ex parte communication with the child's lawyer-guardian ad litem ("LGAL") a day or two after the judge conducted a trial at which the judge concluded that the father had committed both physical and sexual abuse against the child. Neither the judge nor the LGAL explicitly mentioned the case during the ex parte communication, but both understood what case they were talking about. A week later the judge revealed off the record that they had a conversation with one of the attorneys (but did not identify which one) who had raised doubt about whether the sexual abuse occurred. The judge then went on the record, stating that they may have erred by finding sexual abuse at the trial. The judge then set a date for any motion for rehearing/reconsideration to be filed, effectively inviting such a motion. The judge did not otherwise summarize the off-the-record discussion or identify any reason the judge now thought the original findings were in error.

After the judge's invitation, the father filed a motion for rehearing. The judge conducted a hearing and reversed their earlier ruling that sexual abuse had occurred. The judge did not cite any findings of fact or law on the record regarding their decision to reverse their earlier findings of both physical and sexual abuse, despite an explicit request from one of the lawyers that the judge explain their rationale.

The judge denied to the Commission that their ruling was influenced by the ex parte conversation after the trial and instead offered other bases to support the ruling. The Commission found that the judge's failure to comply with the fundamental requirement to explain their ruling disregarded the law, in violation of Canon 3(A)(1), and left the judge open to further criticism that their reason for reversing the findings was because of the ex parte conversation with the LGAL. The Commission found that the judge had created an appearance of impropriety and loss of impartiality that violated Canons 2(A) and 2(B).

The Commission admonished the judge to avoid ex parte communications, promptly disclose any future ex parte conversations to the extent they occur, clearly communicate the basis for their decisions, and be mindful of not undermining the appearance and reality of impartiality.

1. Ex parte communications, failure to avoid premature judgments and loss of impartiality

A judge who had not yet ruled on the issue of visitation had an ex parte conversation with a non-party at a grocery store. During that conversation, the judge made statements that could have revealed the judge's inclination to rule in a specific manner. The Commission determined that the conversation violated Canon 3(A)(4), which forbids ex parte communications.

The judge told the Commission they believed the conversation to be innocuous and not indicative of how they would rule. The Commission disagreed, finding that the conversation also violated Canon 3(A)(12) to the extent it conveyed the impression that the judge had prejudged the issue before them. The Commission also found that the judge violated Canon 2(A) by creating an appearance of impropriety, and Canon 2(B) because the judge's behavior undercut the public's faith in their impartiality.

During the investigation, the judge fully acknowledged their mistake and demonstrated a desire to avoid any future similar mistakes. They were new to the bench at the time the statement was made and several years had passed before the Commission acted. The Commission cautioned the judge not to engage in improper conversations or prejudge cases in the future.

m. Loss of impartiality, lack of courtesy and respect, ex parte communications and failure to avoid premature judgments

The Commission admonished a judge for misconduct in three separate matters.

In the first matter, the judge presided over a criminal felony jury trial. When the judge called the case for trial, the defendant's attorney was not present. The defendant's attorney had checked in with the judge's court clerk prior to the case being called and had been advised that they could handle a matter in another courtroom first because the judge was going to handle other matters on their docket before calling the trial. The defendant's attorney arrived to start the trial soon after the matter was called.

Immediately after the jury was seated in the courtroom, the judge stated, “first of all the defense attorney wants to apologize for over-booking this morning.”

The judge told the Commission that they made this statement because they were frustrated that the jurors were kept waiting in a small jury room during the delay. The judge was not aware that their clerk had excused the defendant’s attorney. The Commission recognized the judge’s strong desire to be considerate of the jury and to keep the jury informed about the reason it had been kept waiting. Nonetheless, the Commission found that by informing the jury that its wait was due to “overbooking” by the defendant’s attorney, they created the possibility of biasing the jury against either the defendant or their attorney. The Commission stressed that the judge’s approach was contrary to their Canon 2(B) obligation not to undercut the public’s faith in their impartiality and their Canon 3(A)(14) obligation to treat the defendant fairly.

In the second matter, the judge presided over a first- and second-degree criminal sexual conduct case with a minor victim. Given the nature of the charges, during the preliminary examination it was imperative to determine if there was sexual penetration to bind over on first-degree criminal sexual conduct. The victim was young, inexperienced, and apprehensive, and had trouble providing specific answers regarding penetration. Further, the assistant prosecutor was not licensed yet and the defense attorney was relatively new to CSC cases. After several clumsy and perhaps improper questions about penetration and the female anatomy by the defense attorney without objection by the prosecutor, the judge interjected in an attempt to assist by commenting that the defense attorney was at a disadvantage because they had “never seen a vagina.”

The judge assured the Commission that they did not intend to embarrass the defense attorney but they appreciated how their comment could be perceived as undignified and discourteous. The Commission found that the judge’s comment violated Canon 3(A)(3).

In the third matter, the judge presided over a trial involving a 12-year-old witness. The prosecutor moved to strike the child’ testimony, arguing that the witness was not competent to testify. The judge conducted a competency examination outside the presence of the parties. In one of their answers, the witness told the judge that they saw the defendant hit the complainant but added that they did so in self-defense. Upon hearing that, the judge stopped trying to determine whether the witness was competent and instead took on the role of a prosecutor trying to get the witness to retract their version of events, telling the witness (without foundation) that they had no basis for their knowledge, were only saying what people had told them to say, and that their testimony did not make sense. The judge further shared with the witness the judge’s personal belief that the complainant had not done anything wrong.

The Commission found that the judge largely abandoned the judicial function of determining competency—that is, the minor witness’s “physical or mental capacity or sense of obligation to testify truthfully and understandably” under MRE 601—and instead focused mostly on whether the minor witness was biased or had been coached. The Commission stressed that MRE 104(a), which authorizes a judge to determine a

witness's competency, does not authorize a judge to use a competency examination to coach or badger the witness, or to obtain ex parte information about the underlying case. The Commission was also troubled that after the judge had this very fact-based interaction with the minor witness, they did not promptly inform the parties of its nature.

The Commission found that the judge violated: 1) Canon 3(A)(4) by asking the minor witness about the facts of the case, which amounted to an ex parte communication; 2) Canon 2(B), based on the judge's failure to be impartial; and 3) Canon 3(A)(12), for interfering with the "proper presentation of the cause" and "the ascertainment of truth" and for the judge's "premature judgment" about the minor witness's credibility.

The judge recognized their errors in all three instances and accepted full responsibility. In light of that and the judge's good discipline history, the Commission admonished the judge for these instances of misconduct.

2. Conduct off the Bench

a. Failing to observe the law

A judge self-reported the discovery by TSA of a loaded, unregistered handgun in their bag at an airport. The judge immediately acknowledged to TSA personnel that they had the handgun and admitted their mistake in carrying a loaded handgun into the airport.

The judge was licensed to carry a gun. The judge received the gun from a friend. The judge initially told police that the handgun was registered but retracted that after learning that the handgun was not registered because the state the friend lived in did not require registration.

The judge explained to the Commission that they routinely carry a handgun out of fear for their personal safety. The night before they went to the airport on this occasion was hectic and stressful for personal reasons, causing the judge to forget to remove the handgun from their bag before going to the airport.

The judge pled no contest to the misdemeanor of carrying a gun into an airport and paid a civil penalty as well.

The Commission found that the judge violated Canon 2(B) by failing to observe the law. In addition, their conduct eroded public confidence in the judiciary because their arrest was widely reported. Finally, they violated MCR 9.104(5) by their plea to violation of a criminal ordinance.

The Commission took into account the judge's clean discipline record and Commission precedent in similar situations. On those bases, the Commission dismissed with an admonition to take all necessary precautions before future travel to the airport to ensure they have no handgun with them, and to ensure the veracity of any future statements to the police.

b. Appearance of impropriety and serving as officer of corporation

Prior to taking the bench, a judge operated a business that was outside the county where the judge presided. The business had a liquor license under an agreement with the city in which the business was located. The judge put the liquor license in escrow in violation of their agreement with the city. The judge told the Commission they were unaware of the restriction on putting the license in escrow, but the evidence showed that the judge was probably aware of the restriction. The Commission found that the judge's knowing and ongoing violations of the operating agreement violated MCR 9.104 and created an appearance of impropriety in violation of Canon 2(B).

The Commission also found that the judge remained an officer of the corporation that held the liquor license after becoming a judge. Though the corporation was no longer engaged in active business, it had not been dissolved. The Commission found that this violated Canon 4(E)(2), which prohibits a judge from serving as director, officer, manager, advisor or employee of any business.

The Commission noted that the judge had been admonished in another unrelated matter for their conduct on the bench. The Commission dismissed with an admonition. As a condition of the dismissal, the Commission ordered the judge to relinquish their roles in the business and relinquish the liquor license to the city or otherwise dispose of it in accordance with the agreement with the city.

c. False statements during a campaign

During a public forum of the candidates that was recorded and broadcast by a local media outlet and online, the moderator asked a judge to explain their judicial philosophy. As part of their answer, the judge falsely stated that they had never been overturned on appeal. In fact, the judge had been reversed by the Court of Appeals in at least three cases over the course of a twenty-four-year career.

The judge candidly acknowledged to the Commission that their statement about their appellate record was false but explained that the inaccurate statement was "spontaneous" and made in the "heat of the moment" when the moderator asked an unexpected question about judicial philosophy as to which the judge had no advance notice or an opportunity to research the appeals in their cases. The judge admitted that they made the inaccurate statement negligently, not knowing its falsity, but claimed that the statement was not made recklessly nor with an intent to deceive.

The Commission noted that the moderator's question was about the judge's judicial philosophy, not the judge's record of reversal, and that the judge had volunteered the false statement as a nonresponsive part of their answer. Nonetheless, the Commission determined that the evidence did not show that the judge knew their statement was false at the time they made it. Accordingly, the Commission found that the judge did not violate Canon 7(B)(1)(d), which requires that a candidate for judicial office "should not knowingly or with reckless disregard, use or participate in the use of

any form of public communication that is false.” Rather, the Commission found that the judge’s comment was negligent.

In dismissing the grievance, the Commission explained that judges should strive to avoid negligence in their public statements and encouraged the judge not to make public statements of verifiable fact without a sound basis for their statements.

VI. COMMISSION ORGANIZATION, STAFF AND BUDGET

A. Commission Organization and Staff

The Commission had twelve full-time and one part-time staff positions at the end of 2024, which included the executive director, deputy director, administrative counsel, seven full-time and one part-time staff attorneys, an office manager and an administrative assistant. These staff members are state employees.

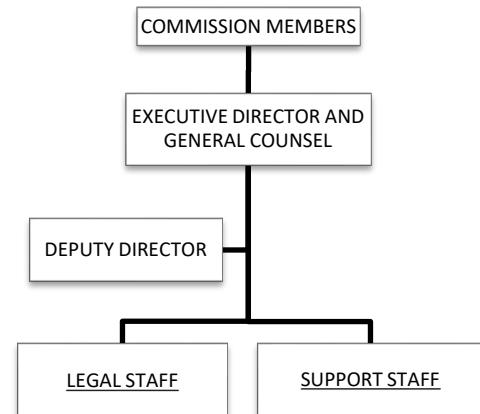
The executive director is hired by, and reports directly to, the Commission. The executive director oversees the investigation of grievances and is the disciplinary counsel handling public proceedings. The executive director is also the primary liaison between the Commission and the judiciary, the public, and the media. Lynn Helland has been the executive director and general counsel since February 2017.

Kevin Hirsch became the deputy director in October 2024. The deputy director oversees litigation in public proceedings, stands in for the executive director, investigates cases, and otherwise assists in the operation of the office.

Casimir J. Swastek is administrative counsel. The other staff attorneys are Margaret N.S. Rynier, Dina Dajani, Melissa Johnson, Nichollette Hoard, Lora Weingarden, Rebecca Jurva-Brinn, Kavita Uppal, and Molly Kettler.

In addition to the permanent attorneys, since late 2018 the Commission has had contract attorneys assist with its backlog of cases. As of the end of 2024, funding provided by the legislature enabled the Commission to have the contract assistance of attorneys Dennis Haffey, Sheldon Light, Patricia Gaedeke, and David McCreedy.

The Commission also benefited greatly in 2024 from the continued volunteer assistance of Robert Kalec. Mr. Kalec had retired after a very successful legal career, but recognizing the importance of the Commission’s work and that the work be timely, he has generously volunteered his time and talent to help address the Commission’s backlog.

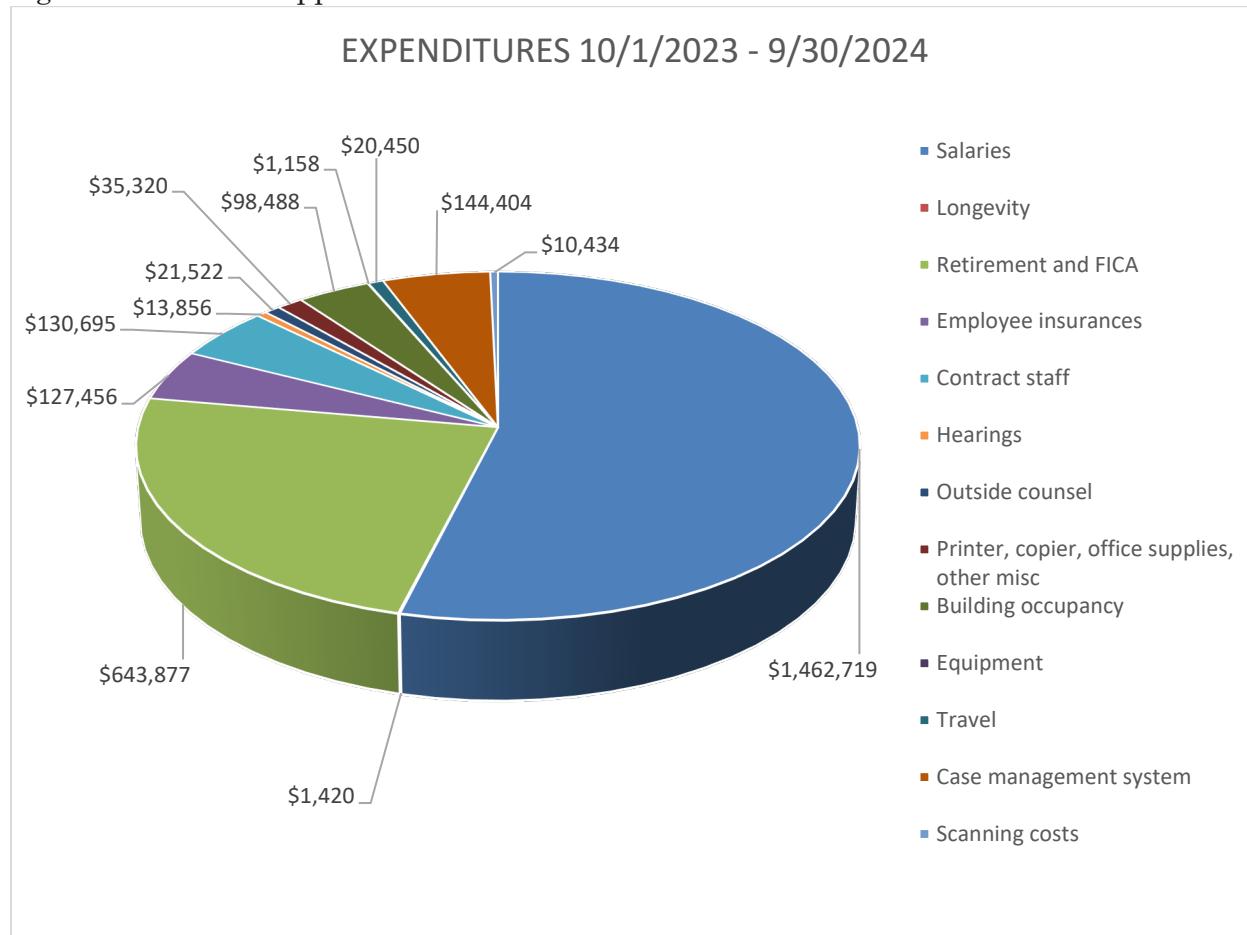


The Commission's legal staff are responsible for analyzing and investigating grievances and providing the Commission the information it needs to act on grievances. In addition, the attorneys serve as co-disciplinary counsel during public proceedings.

As of the end of 2024 the Commission's support staff was comprised of Office Manager Camellalynette Corbin and Administrative Assistant Jason Flowers.

B. Budget

The Commission's budget is established by the Michigan legislature. For the 2024 fiscal year (October 1, 2023 – September 30, 2024) the Commission's appropriation was \$2,860,338, with actual expenditures of \$2,711,799. The Commission is grateful to the legislature for its support.



VII. CONCLUSION

The Commission's service to the public improved again during 2024, thanks to additional staff made possible by the Michigan legislature. The Commission remains committed to fairly promoting the integrity, independence, and justness of Michigan's judiciary while promoting the public's confidence that the Michigan judiciary possesses those qualities and doing so as timely as resources permit.