

DISCIPLINARY GRIEVANCES AGAINST PRACTITIONERS AT THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

August 1, 2019 – July 31, 2024

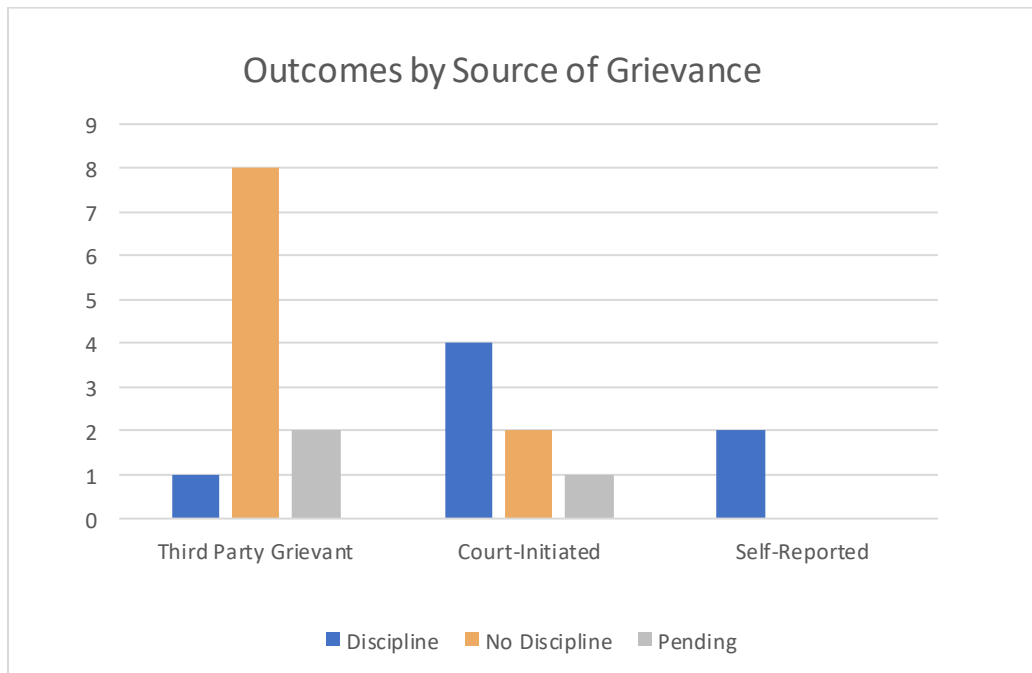
Introduction

This compendium provides an overview of grievances against members of the Court’s bar filed with the Court during a five-year period.¹ The summaries of concluded cases include a brief description of the alleged conduct in each grievance, as well as findings of rules violations and discipline imposed, if applicable. For the rules and professional standards to which they must adhere, practitioners should refer to the:

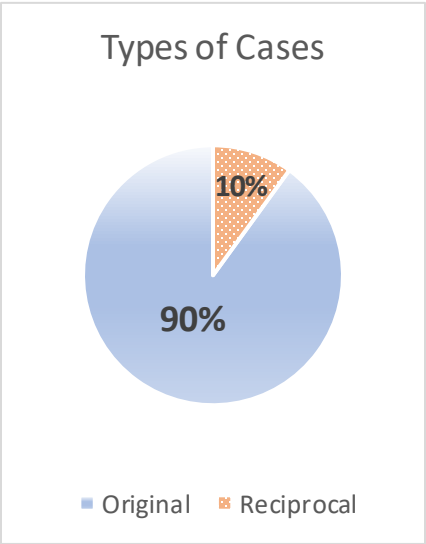
- [Rules of Practice and Procedure](#),
- [E-filing Rules](#),
- [Rules of Admission and Practice](#), and
- [ABA Model Rules of Professional Conduct](#) (Model Rules).

Overview

Between August 1, 2019, and July 31, 2024, twenty attorney discipline cases were opened, and seventeen have concluded to date. Seven grievances were filed by the Court, eleven were filed by third party grievants, and two attorneys self-reported discipline by another court.



¹ While grievances may also be filed against non-attorney practitioners, the Court received grievances against only attorneys during this period.

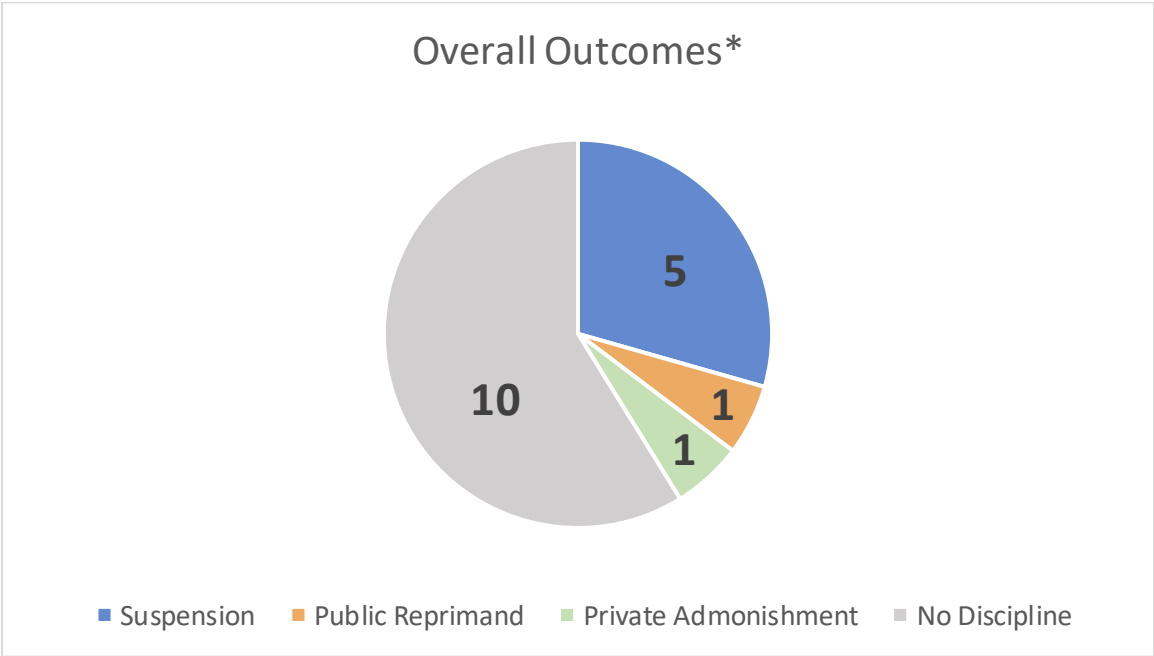


Eighteen cases were original discipline cases based on grievances alleging misconduct before or related to practice before the Court. Two cases were reciprocal discipline cases based on discipline imposed by another jurisdiction.

Of the seventeen concluded cases, seven (41%) resulted in discipline. Six cases (35%) involved public discipline in the form of five suspensions and one public reprimand. There was one private admonishment. In addition to these forms of discipline, the Court also frequently ordered the practitioners to complete CLE courses, probation, or a combination of both.

Ten of the seventeen (59%) concluded cases did not result in discipline. Five (29%) were dismissed at the first stage upon a finding by the Chief Judge, or next most senior judge in the Chief Judge’s stead, that the grievance lacked prima facie validity. In the other five cases (29%), the grievance was referred to the Court’s Standing Panel on Admission and Discipline, and the practitioner involved was required, at a minimum, to respond to orders of the Court as to the nature of the grievance. Those cases were ultimately dismissed upon a finding that the conduct did not constitute misconduct or that the grievance was unfounded or unsupported by sufficient evidence.

In sum, twelve of the seventeen concluded cases (71%) were referred to the Standing Panel and the practitioner involved was required to respond to at least one order. The Standing Panel ultimately imposed discipline in seven cases and dismissed five cases.



*This chart includes only the 17 concluded cases.

Of the five cases where original discipline was imposed, the Court found the following rule violations. Frequently, though not always, a practitioner was found to have violated more than one rule.

Model Rule 1.1 (Competence)	3 violations
Model Rule 1.2 (Scope of Representation)	1 violation
Model Rule 1.3 (Diligence)	5 violations
Model Rule 1.4 (Communications)	1 violation

Summaries of Disciplinary Cases

I. Cases that Resulted in Discipline

1. The Court reviewed allegations that an attorney failed to respond to multiple Court orders and repeatedly filed late and nonconforming documents in two cases, one of which was dismissed. The Court found that the attorney violated Model Rules 1.1 (Competence) and 1.3 (Diligence) and therefore committed professional misconduct. The Court suspended the attorney from practicing before the Court for 90 days. The attorney was also ordered to complete 6 hours of CLE and, if they wished to be reinstated, move for reinstatement. [20-8002A]
2. The Court reviewed allegations that an attorney failed to file required documents and respond to Court orders, repeatedly filed nonconforming documents in multiple cases, and filed briefs with unsupported and undeveloped arguments; one case was dismissed. The Court concluded that the attorney violated Model Rules 1.1 (Competence) and 1.3 (Diligence) and therefore committed professional misconduct. The Court ordered that the attorney be publicly reprimanded, serve a six-month probationary period, complete 12 hours of CLE, and continue a mentorship relationship with an experienced veterans law attorney during the probationary period. [20-8003A]
3. The Court reviewed allegations that an attorney failed to file required documents, filed nonconforming documents, and/or failed to respond to Court orders in four cases, two of which were dismissed. The Court found that the attorney violated Model Rule 1.3 (Diligence) and therefore committed professional misconduct. The Court ordered that the attorney be privately admonished, complete 12 hours of CLE within one year, and serve a two-year probationary period. [20-8004A]
4. The Court imposed reciprocal discipline on an attorney who self-reported that a state supreme court suspended the attorney from practice for a period of 120 days. The Court also reciprocally ordered that the attorney complete 6 hours of CLE, move for reinstatement if they wish to be reinstated, and practice under the supervision of another member of the Court's bar for two years upon reinstatement. [20-8005A]
5. The Court reviewed allegations that an attorney failed to competently represent an appellant when they filed a deficient brief and failed to file a reply brief, both of which

were noted in the Court's Memorandum Decision; the grievant also alleged that the attorney filed an appeal from this Court's decision that was untimely and not authorized by the appellant. The attorney was the same attorney disciplined in matter 20-8004A. The Court found that the attorney violated Model Rules 1.2 (Scope of Representation), 1.3 (Diligence), and 1.4 (Communications), and therefore committed professional misconduct. The Court suspended the attorney for 120 days and ordered that they complete the 12 hours of CLE previously ordered plus an additional 3 hours. The attorney must move for reinstatement if they wish to be reinstated and complete two years of probation upon reinstatement. [21-8002A]

6. The Court reviewed allegations that an attorney had, on numerous occasions, failed to respond to Court orders and file required and/or conforming documents, which led to the dismissal of six cases for failure to prosecute and comply with the Court's rules. The Court found that the attorney violated Model Rules 1.1 (Competence) and 1.3 (Diligence) and therefore committed professional misconduct. The Court suspended the attorney from practice before the Court for 6 months and ordered that the attorney complete 12 hours of CLE and meet specific conditions prior to moving for reinstatement. [23-8001A]
7. The Court imposed reciprocal discipline on an attorney who self-reported that a state supreme court had suspended the attorney from practice for 45 days. The attorney must move for reinstatement if they wish to be reinstated and show proof of their reinstatement by their state bar. [23-8002A]

II. Cases that Did Not Result in Discipline

1. The Court reviewed allegations that an attorney failed to obtain a client's consent or authorization before withdrawing the client's appeal and ignored communications from the client regarding the withdrawal. The Court dismissed the grievance as unsupported by sufficient evidence. [20-8001A]
2. The Court reviewed allegations that six attorneys made various erroneous representations to the Court, including regarding the appellant's medical records and the status and extent of ordered examinations. This matter was closed after the next most senior judge, in the Chief Judge's stead, determined that the grievance lacked prima facie validity. [20-8006A]
3. The Court reviewed allegations that an attorney failed to advise their client of the consequences of withdrawing the client's motion for reconsideration before the Board of Veterans' Appeals in favor of prosecuting the client's appeal at the Court. The Court dismissed the grievance as unsupported by sufficient evidence. [21-8001A]
4. The Court reviewed allegations that an attorney pursued a veteran's appeal despite knowing that the veteran was deceased. The Court did not impose discipline because the grievance was unfounded. [21-8003A].

5. The Court reviewed allegations that an attorney failed to provide diligent and effective representation, and effective counseling, and that the attorney acted contrary to the client's instruction. The Court dismissed the grievance as unsupported by sufficient evidence. [21-8004A]
6. The Court reviewed allegations that two attorneys filed an appeal and continued the appeal for eight months after the death of their client. The Court found that the attorneys' actions did not constitute professional misconduct and did not impose discipline. [22-8001A]
7. The Court reviewed allegations that an attorney improperly communicated with a represented individual. This matter was closed after the Chief Judge determined that the grievance lacked prima facie validity. [22-8002A]
8. The Court reviewed allegations that two attorneys committed malpractice by improperly filing a brief containing frivolous arguments in place of the informal brief that the appellant had already submitted. This matter was closed after the Chief Judge determined that the grievance lacked prima facie validity. [23-8003A]
9. The Court reviewed allegations that an attorney misappropriated retroactive payment funds. This matter was closed after the Chief Judge determined that the grievance lacked prima facie validity. [23-8005A]
10. The Court reviewed allegations that two attorneys were negligent and "corrupt" in representing an appellant before the Court. This matter was closed after the next most senior judge, in the Chief Judge's stead, determined that the grievance lacked prima facie validity. [23-8006A]

III. Pending Cases

1. 23-8004A
2. 24-8001A
3. 24-8002A