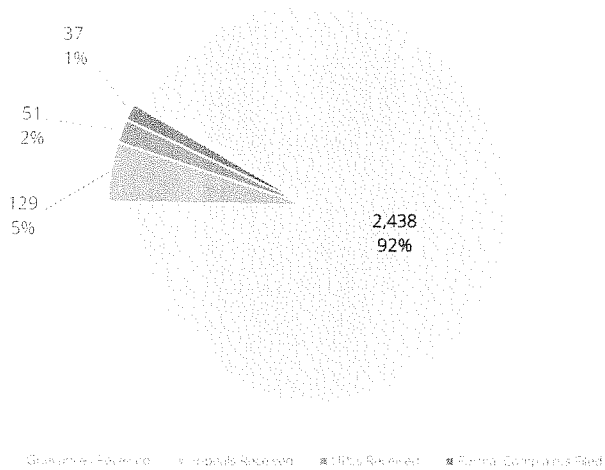


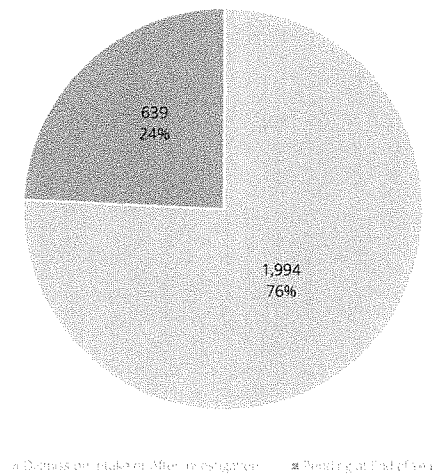
- TABLE 1 -
FIVE-YEAR CASE COMPARISON (2016-2020)

	2016	2017	2018	2019	2020
DISPOSITION OF GRIEVANCES					
Dismissed on Intake or After Investigation	2,054	1,154	2,401	2,366	1,993
Pending at End of Year	564	626	642	724	637
CASELOAD COMPARISON					
Grievances Received	2,356	2,598	2,693	2,531	2,013
Appeals Received	171	150	110	134	78
UPLs Received	47	55	45	54	52
Formal Complaints Filed	39	34	40	35	35

CASELOAD COMPARISON:
FIVE-YEAR AVERAGE



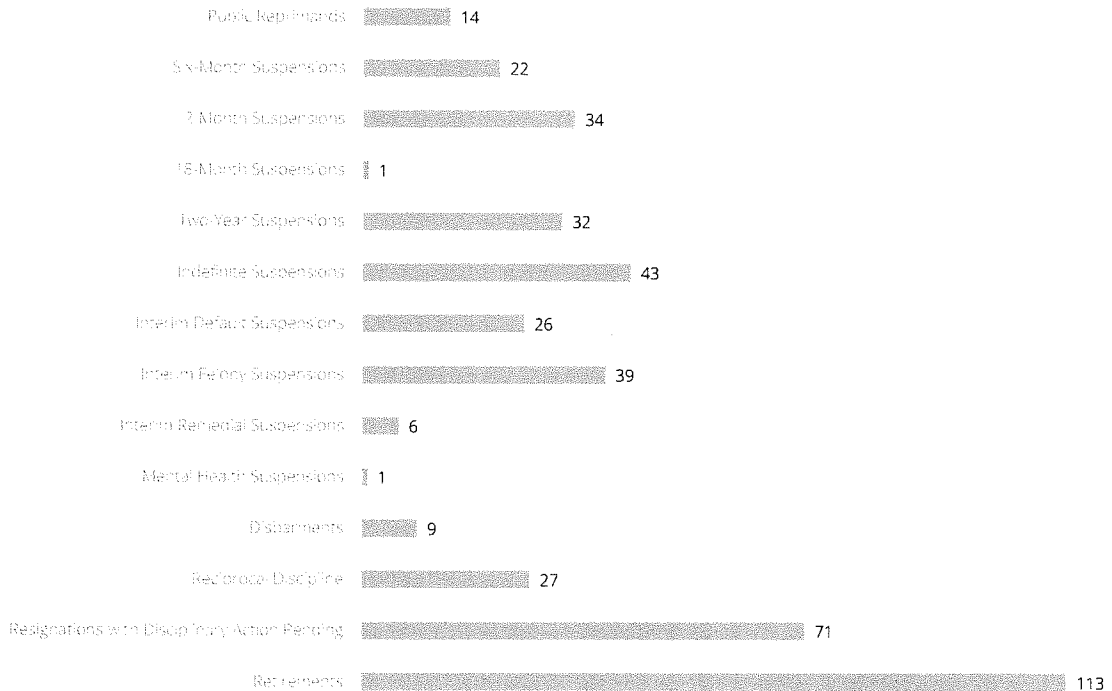
DISPOSITION OF GRIEVANCES:
FIVE-YEAR AVERAGE



- TABLE 1 -
FIVE-YEAR CASE COMPARISON (2016-2020)

SANCTIONS ISSUED (SEE TABLE 3 ON P. 16 FOR DETAILS)	2016	2017	2018	2019	2020
Public Reprimands	2	2	1	4	5
Six-Month Suspensions	5	3	5	1	8
One-Year Suspensions	11	5	3	10	5
18-Month Suspensions	0	1	0	0	0
Two-Year Suspensions	10	3	7	7	5
Indefinite Suspensions	10	6	7	7	13
Interim Default Suspensions	8	3	5	6	4
Interim Felony Suspensions	6	6	5	14	8
Interim Remedial Suspensions	1	2	1	0	2
Mental Health Suspensions	0	0	0	0	1
Disbarments	1	4	2	1	1
Reciprocal Disciplines	6	4	10	4	3
Resignations with Disciplinary Action Pending	19	12	14	12	14
Retirements	19	24	21	23	20

SANCTIONS AND DISPOSITIONS ISSUED: FIVE-YEAR TOTAL



- TABLE 2 -
GRIEVANCES RECEIVED AND OPENED FOR INVESTIGATION
A FIVE-YEAR COMPARISON (2016-2020)

Alleged Primary Violation	2016	2017	2018	2019	2020
Neglect/Failure to Protect Client Interests	262	255	248	245	192
Failure to Account or Turn Over Funds	26	23	18	21	11
Improper Withdrawal/ Refusal to Withdraw	15	16	21	13	15
Excessive Fees	66	69	67	80	60
Personal Misconduct	65	51	67	75	66
Misrepresentation/False Statements/ Concealment	31	17	53	37	34
Criminal Conviction	8	17	10	27	8
Failure to File Income Tax Returns	0	0	0	0	1
Commingling of Funds	0	0	0	0	0
Conversion	17	30	15	21	16
Embezzlement	1	2	3	8	8
Failure to Maintain Funds in Trust	180	182	246	216	125
Breach of Client Confidence	14	6	8	15	9
Conflict of Lawyer's Interest	41	29	21	12	8
Conflict of Client's Interest	53	36	40	53	46
Communication with Adverse Party Represented by Counsel	12	10	6	5	7
Trial Misconduct	101	112	91	89	88
Failure to Register	0	1	0	4	2
Practicing While Under Suspension	10	9	1	9	4
Assisting in the Unauthorized Practice of Law	2	4	2	20	0
Advertising/Solicitation	13	20	13	21	4
Judicial Misconduct	100	98	107	100	146
Mental Illness	2	2	1	1	0
Substance Abuse	1	8	9	5	4
Other	0	0	1	1	1
TOTAL	978	1,010	1,048	1,078	855

Recap of Recent Advisory Opinions
From the Ohio Board of Professional Conduct

- 2021-04 Competitive Keyword Online Advertising
- 2021-05 Communication of a lawyer Specialization in a Field of Law Not Designated by the Supreme Court
- 2021-07 Employment Agreements Regarding Division of Fees Earned Post-Separation
- 2021-09 Employment of a Disqualified or Suspended Lawyer

Ohio's new Statute of Repose for Legal Malpractice Claims
(ORC Section 2305.117)

- The legislation enacts Section 2305.117 Ohio Revised Code, to establish a statute of repose for legal malpractice claims unless the malpractice claim falls within the exceptions in Section 2305.117 (B) regarding persons within the age of minority or of unsound mind, or the limited discovery exception in Section 2305.117(C). Section 2305.117 provides that no action for a legal malpractice claim shall be commenced more than four years after the occurrence of the act or omission constituting the alleged basis of the legal malpractice claim. If an action upon a legal malpractice claim is not commenced within four years after the occurrence then, any action on that claim is barred.
- The legal malpractice statute of repose will provide a date certain for attorneys and the legal profession to end the potentially unlimited discovery for legal malpractice claims. This is similar to the statute of repose for malpractice claims against other professionals including doctors, podiatrists,

registered nurses, architects, and engineers. The act took effect on June 14, 2021.

- Prospective or retroactive?

Amended Rule 5.5 of the ORPC

(d) A lawyer admitted and in good standing in another United States jurisdiction may provide legal services in this jurisdiction through an office or other systematic and continuous presence in any of the following circumstances

(4) the lawyer is providing services that are authorized by the lawyer's licensing jurisdiction, provided the lawyer does not do any of the following:

(i) solicit or accept clients for representation within this jurisdiction or appear before Ohio tribunals, except as otherwise authorized by rule or law;

(ii) state, imply, or hold himself or herself out as an Ohio lawyer or as being admitted to practice law in Ohio;

(iii) violate the provisions of Rules 5.4, 7.1, and 7.5.

(e) A lawyer who is practicing pursuant to division (d)(2) or (4) of this rule and the lawyer's law firm shall indicate the jurisdictional limitations of the lawyer. If any Ohio presence is indicated on any lawyer or law firm materials available for public view, such as the lawyer's letterhead, business cards, website, advertising materials, fee agreement, or office signage, the lawyer and the law firm should affirmatively state the lawyer is not admitted to practice law in Ohio. See also Rule 7.1 and 7.5.



THERE ARE NO DUMB QUESTIONS

(OR WAS THAT WRONG?)

I do a lot of defense work for an insurance company. The in-house attorney who gives me work and to whom I report on my cases asked me out for a drink after a mediation. There were sparks. Not a problem because she isn't a client, right?

Rule 1.8 Comment 19



I represent two plaintiffs in a case. One of them wants to settle and the other wants to try the case.

The defendant has made a single offer to settle both cases and refuses to settle one case but not the other. Do I have to withdraw?

Upon hearing that I am going to have to withdraw from the representation of both clients, they both agreed to settle the case. They are willing to accept the amount the defendant has offered, but can't agree on how it should be split – each client thinks he has the bigger claim. They want me to evaluate their cases and tell them how to split the money. Can I stay on the case under these circumstances?

My client wants me to ask the jury for an unrealistic number in closing – do I have to do it?



**Rules 1.2, 1.4, and
1.16(b)(4)**

I know my client's family is coming in for the holidays and I received an adverse ruling in her case on Friday – can I wait until Monday to pass along the decision?

I have a case pending in front of Judge Clueless. The other side has filed a MSJ. Judge Clueless calls me and wants to discuss the motion – I tell him that perhaps we should have a court conference or a conference call and involve the other side. The judge says “no need...” – he intends to call the other side next and discuss their motion with them. This seems like an ex parte communication – but the judge initiated it. I am afraid if I offend him, he will take it out on my client. Can I participate in the call?

Do I have an obligation to report Judge Clueless' attempt to initiate an ex-parte contact?



Rule 8.3(b)

What if Judge Clueless calls me to talk about the motion and tells me he has already talked to the other side? Do I have an obligation to report the fact that the other lawyer has engaged in an ex-parte contact with the judge?

I am representing a physician who is dissolving his practice with another physician. The issues are monetary and both sides are being professional. I see the other physician at a social event and we talked for quite a while about the Bengals but nothing about the case. I was trying to create a good impression on him outside the case which I hoped would carry over to our upcoming mediation. He is represented by counsel. Ever since then I have been feeling guilty – what if he mentions our conversation at the mediation – will opposing counsel accuse me of doing something wrong?

My law practice is a corporation – may I refer to my fellow shareholders as my “Partners”?



Rule 1.0 (h)

I represented a client before an administrative agency and later learned that she was untruthful in her testimony. Do I have an obligation to correct the testimony since the testimony wasn't in court?

My client wants me to clear a cloud on the title to some property he owns but doesn't have much money. He is willing to give me 10% of the sale proceeds of the house to clear the title. This seems like a contingency fee contract. The house can be sold with the title as is, but it won't bring as much. As long as I have a written fee contract, am I covered?

A personal injury client came to see me two years and two days after the accident. I want to call the potential defendant, who is not represented by counsel, and ask her if she has been out of state on vacation for more than three days in the last two years. If so, my suit might still be timely if I file it today. Can I contact her?

I have a longstanding client who lives in another state. We have been friends for years and lately our emails and calls have gotten more and more flirtatious, and explicit. We will never take our relationship any farther than it is right now. Does this present an issue?

Rule 1.8 (j)



Potential Client A contacted me looking for possible representation in a domestic relations matter. He told me that he had been involved in an extramarital affair. He didn't hire me.

Potential Client A has now sued Potential Client B for defamation – she reported in an online neighborhood chat that he is a pervert and a peeping tom.

Can I represent Potential Client B?

If Potential Client A had revealed to me that he was a peeping tom, could my partner represent Potential Client B if I am screened from the matter?



Rules 1.18 (c) and 1.0(L)

What if I had told Potential Client A, at the beginning of our interaction, not to tell me anything about his situation other than the names of his wife and children so I could check conflicts. But in addition to the information I requested, he blurted out that his wife had caught him using binoculars to look into the neighbor's bedroom window?

What if Potential Client A had complied with my request for limited information and gave me only the names of his wife and children – and I declined because I realized one of his children is friends with one of my children. Can I later represent Potential Client A's wife against him in the domestic relations matter?

My girlfriend and I practice in the same subject area at different firms. She has asked me to review a contract she drafted for one of her clients and some background documents from her client, but she doesn't want to tell the client about my involvement. Isn't she allowed to consult with another lawyer on something like this?

Rule 1.6. Disciplinary Counsel v Kerr



I am representing a client in a business deal with an unrepresented person. The other person knows that I represent the other party and not her. But she has asked me to explain the documents I have drafted and I feel like that is giving legal advice to an unrepresented party whose interests may be adverse to my client's interests. Should I just tell her that she needs to get her own lawyer?

An existing client comes to me with a potential medical malpractice claim. It sounds like a good claim to me, but I don't know much about medicine and I have never handled a medical malpractice claim before. Can I take the case if I tell the client the truth about my experience?



What if I don't want to dedicate the time to learn the area, can I agree to represent the client only long enough to write a demand letter and see if we can get a quick settlement?

Can I sign the client to a contingency fee agreement that has a clause that enables me to affiliate with other counsel and then try to settle the case by myself, and failing at that, associate with a lawyer who is familiar with medical malpractice work?

Rules 1.1, 1.4, 1.5 (c), 1.6,

If I get the client's consent to add other counsel to the medical malpractice team, and satisfy Rule 1.5(c) can I sit back and wait for the case to settle?

Rule 1.5(c)



The bar association is investigating a lawyer who is a friend of mine. They have asked me to give them information about a case the two of us had together last year. I think he probably violated the ORPC in that case and I didn't report him. If I cooperate, it is going to ruin our friendship and may create a problem for me (for not reporting). Can I just ignore them and see if they subpoena me?

I represented a client in a personal injury case. She authorized me to send a letter of protection to one of her health care professionals, in which I promised to pay their bill out of the settlement of the case. The case has been settled and the money is in my trust account, but the client refuses to sign the closing statement because she insists that all of the settlement, other than my fees and costs, be given to her. She doesn't want to pay the health care provider.

A lawyer from Kentucky calls me and wants me to act as local counsel for a plaintiff's case he needs to file in Ohio. If he is going to pay me by the hour, do I need to see the contingency fee contract to make sure it complies with Ohio Rule 1.5?

What if he is willing to share the contingency fee with me but only wants me to pro hac him into the case?

I represent a client who believes she was not allowed to rent an apartment because of her race. May I hire a member of the same race to attempt to rent from that landlord in order to establish a civil rights violation?

I represent a lot of very conservative, old money families. My office is interviewing for a new receptionist and a qualified but openly gay woman has applied for the job. I think having this woman out front in our office will be off-putting to our clients. I realize that I may have some civil liability for not hiring her because of her orientation – but I am willing to run that risk. There is no other downside to passing on this potential hire, right?

Rule 8.4g



I am being interviewed to be replacement counsel by a client who has a case pending before Judge Links. I really want the case. Can I mention that I play golf with the judge on a regular basis?

Rule 8.4(e)



I am driving back from a casino in Indiana and I get pulled over for OVI before I reach Ohio. My Ohio driver's license has expired. I refuse to take the roadside breath test. Because of that refusal, my driving privileges are suspended. When I get home, I go to the Ohio BMV to apply to get my license renewed. The form I have to sign has a number of preprinted statements on it, including one that says my privileges have not been suspended and that I do not have any pending citations for violations of any motor-vehicle laws in Ohio or elsewhere. This doesn't have anything to do with the practice of law, can I sign the form?



Rules 8.4(c) and (h)

I think my opponent in some civil litigation has assisted her client in destroying evidence. I don't want to report her, but I do want the judge to be aware of the unethical conduct. I draft a motion that sets forth the conduct and the rules it violates. I support the motion with my affidavit attesting to the conduct. Am I good?

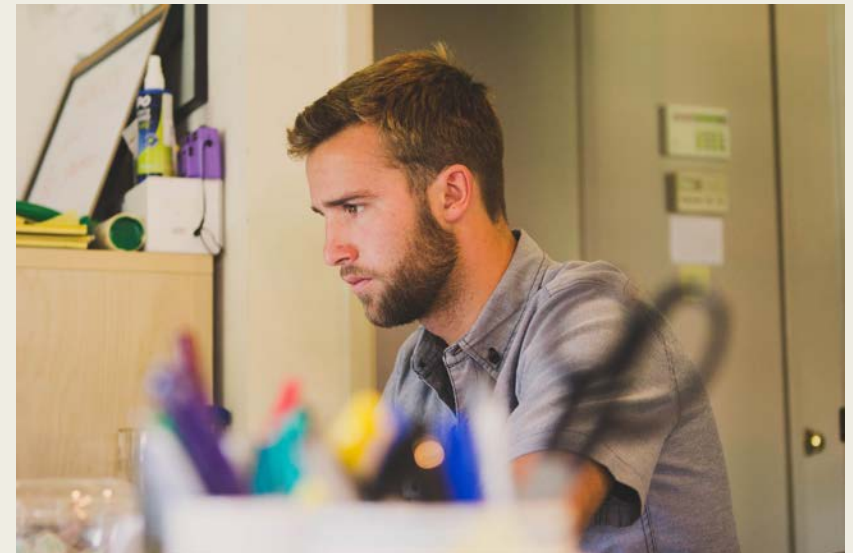
What if my client is the one with knowledge of the lawyer's involvement in the destruction of evidence and I file the same motion supported by my client's affidavit. Isn't what my client told me about the conduct privileged?

It sure would make life easier if I could discuss some of these issues with an ethics lawyer, but a lot of what I have to ask is privileged. What can I do?

My best friend's son is starting a business. He has asked me to represent in setting up the entity, creating the operating agreement, and drafting a handbook for his employees. The son is just starting out and is short on funds. My friend wants me to charge his son half my normal hourly rate and he will pay the difference. The son has a strong independent streak and my friend doesn't want me to tell him about our payment arrangement. As long as I don't share attorney client information with my friend, can I do this?

Rule 1.8(f)

Rule 1.7, comment 23



I represent the wife in a contentious DR case. The parties are fighting about custody of their children. The kids are with husband for a week on vacation and my client can see from photos on FaceBook that one of the kids has a swollen face and a black and blue eye. The post says the child took a tumble while water skiing but that he is “toughing it out” without medical attention. My client wants me to write his counsel a letter saying that if he doesn’t take the child for medical attention, we are going to file a criminal complaint for child endangerment. Can I do that?

Rule 1.2 (e)

My client give me a document that purports to be a contract between my client and a third party that is relevant to our civil case. I turn it over to the opposing party in the litigation in response to a RFP. Later, I learn that my client has forged the document. Do I have to take any action to correct the production of a false document?

Am I permitted to if my client instructs me not to?

Rules 1.2(d)(1), Comment 10 and Rule 4.1(b) and Rule 1.16(b)(2)

My contingent fee agreement clearly says that if we settle the case or win, the client pays costs, but if we are unsuccessful, the client is not responsible. We have significant costs into a wrong death case, and the widow says the litigation is too painful and is hindering her healing process. She has instructed me to dismiss the suit with prejudice. I want her to pay the costs of the prosecution, but while we haven't received a settlement or verdict, we haven't been "unsuccessful" either. What can I do?

I have a contingent fee contract with a PI client. I have been litigating the case but because of my workload, I now want to associate with a lawyer from another firm. I have told the client about the other lawyer and our fee split – do I really need to draft a new contingency fee agreement?

I have a criminal practice and I usually enter into flat fee agreements where I just charge a pre-set fee for the work. I don't need to keep time records, right?



I am representing a client in a personal injury case and he tells me that although he appears to be unemployed, he makes his money selling drugs. Can I disclose this to the authorities?

Rule 1.6(2)



I have my work emails on my phone and also text for work. I know I have to use reasonable efforts to prevent unauthorized access to information related to representation of my clients, but my spouse is also a lawyer, working for a different firm. It is OK if she has the password to my phone?

I need to sue a client for unpaid fees. Can I attach my billing statements to the client to my civil complaint?

Rule 1.6(b)(5)

I need to ask a client to waive a potential conflict. Where can I find a form to use for drafting the letter?



Rule 1.1(f) and (b)

My client gave told me some really juicy gossip in the course of the representation, but she wasn't seeking legal advice and I didn't give her any advice about the gossip. I don't think it's privileged. Any reason I can't share it?

Rule 1.6



As luck would have it, I represent a woman in a business dispute and she is listed as a witness in a traffic report I have in a personal injury matter. Unfortunately, in her witness statement, she says my personal injury client was the at fault driver in the accident. Can I take the PI case and cross-examine my client/witness to see if I can shake her observations about the accident?

I have been asked to represent a medium-sized private airport in its bid to have larger commercial aircraft utilize its facility. If that is approved, the noise from larger aircraft will negatively impact the property values in the surrounding neighborhoods. My sister lives in one of those neighborhoods, and she will be furious if the use of the airport is expanded. Do I have a conflict?

Rule 1.7(a)(2) and Comment 14



I represent two clients in unrelated matters, both having to do with the law of adverse possession. Both cases are in the same appellate district. Can I take inconsistent legal positions in the two cases?

I may have blown the statute of limitations on a case, but it isn't clear. The defendant is willing to offer some money in settlement, but not what the case is worth. I want to evaluate the case for the client and then make up the difference between the value of the case and what the defendant will pay. If I make complete disclosure to the client, is this OK?

I have several medical malpractice cases against one doctor. I want to use the same expert witness in each case. He has estimated his time to prepare for and testify in each case to be \$5,000. These are all pretty strong cases and we both think about half of them will result in a favorable verdict. Can we reach an agreement that I will pay him \$10,000 on each case in which the plaintiff prevails in settlement or at trial?

My client is hell bent on trying her case and I am advocating settlement. But when I examine my reasons for advocating settlement, they include things like the community reaction to evidence that will likely come out and will reflect poorly on the client and her family. The client's legal claim is clear, but morally ambiguous.

Can I discuss everything I think is relevant with the client or should I stick to the merits of the legal claim?



THERE ARE NO DUMB QUESTIONS

(OR WAS THAT WRONG?)