

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

January 1, 2017 – February 1, 2022

## *Introduction*

This Compendium illustrates examples of circumstances that have led to grievances and disciplinary proceedings at the Court. Practitioners should refer to the Court’s Rules of Practice and Procedure (“P&P Rules”), E-filing Rules, Rules of Admission and Practice (“A&P Rules”), and the ABA’s Model Rules of Professional Conduct (“Model Rules”) for the rules and professional standards to which they must adhere.

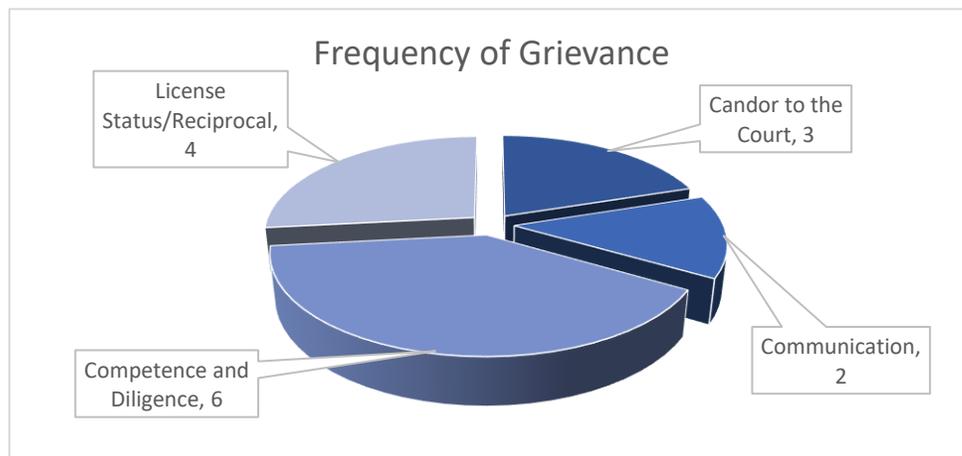
Between January 1, 2017 and February 1, 2022, fifteen grievances were filed and have been concluded. Of those grievances, four were filed by the Court, seven were filed by appellants, and four were reciprocal discipline.

Of the fifteen grievances, seven concluded with the Court imposing discipline. Discipline in these cases included private admonitions, public reprimands, suspensions of various lengths, imposition of probationary periods, mandated CLE courses, and disbarment. Although eight of the grievances did not result in discipline, in half of those cases the practitioner involved was required, at a minimum, to respond to orders of the Court as to the nature of the grievance.

The categorization of each case in the bar and pie charts reflect the primary type of misconduct alleged in each grievance. The summaries that follow include a brief description of the conduct at issue in each case, and whether discipline was imposed. Allegations of misconduct are displayed in italicized text, whereas the result of each case is displayed in bolded text. Summaries appear chronologically.

### *Grievances by Category Between January 1, 2017 – April 1, 2022*

| GRIEVANCE TYPE            | FREQUENCY | DISCIPLINE |
|---------------------------|-----------|------------|
| Candor to the Court       | 3         | 0          |
| Communication             | 2         | 0          |
| Competence and Diligence  | 6         | 3          |
| License Status/Reciprocal | 4         | 4          |



### *Summaries of Disciplinary Cases*

1. The Court reviewed allegations that an attorney *failed to file a timely brief* after assuming a motion for an extension had been granted, and then filed *multiple untimely motions* for a second extension. The appeal was dismissed for failure to file the brief, and was only reinstated by a panel after a motion for reconsideration. The Court also reviewed *allegations that the same attorney acted in an “abusive” or “degrading” manner* toward the attorney’s clients. The Court issued a **warning letter** to the attorney. [17-8001].
2. The Court reviewed allegations that an attorney (1) *filed a frivolous motion* to stay proceedings to coerce a client into filing a new claim and (2) generally made *false statements* to the Court. The Court **did not impose discipline** because there was no evidence to support the allegations. [17-8002].
3. The Court imposed **reciprocal discipline** on an attorney who *failed to inform the Court* of **disbarment** from a state supreme court within the ten-day notice period required by A&P Rule 4(c). [18-8001].
4. The Court imposed **reciprocal discipline** on an attorney who self-reported that a state supreme court **suspended** the attorney from the practice of law for a period of **one year and one day**. [18-8002].
5. The Court imposed **reciprocal discipline** and noted that the attorney *failed to inform the Court* of the attorney’s **suspension** from a state supreme court for **two years**. The Court also ordered that the suspended attorney **must file a motion for reinstatement** to be reinstated to the Court’s bar, including an explanation of the attorney’s failure to (1) notify the Court of the suspension and (2) reply to the Court’s show cause order. [18-8003].
6. The Court reviewed allegations that an *attorney omitted 135.31 hours of work performed by law students* when submitting to the Court an application for attorney’s fees. The Court **did not impose discipline** because there was no evidence that the attorney made false fact statements or requested unreasonable fees. [19-8001].
7. The Court reviewed allegations that an *attorney failed to obtain a client’s consent or authorization before withdrawing the client’s appeal*. The Court also reviewed allegations that the attorney *ignored communications* from the client regarding the withdrawal. The Court did not impose discipline because there was no evidence to show that the attorney committed professional misconduct. [20-8001A].
8. The Court reviewed allegations that an attorney (1) *failed to reply to a Court order* to submit a copy of a retainer agreement, (2) *failed to reply to an order* requesting an appellant to clarify whether the appellant would prosecute an appeal pro se (resulting in a dismissal of the case), (3) *failed to file a brief* within 30 days of a Rule 33 staff conference, and (4) *failed to reply to various show cause orders*. In a public order, the Court **suspended this attorney for 90 days, ordered the attorney to complete at least 6 hours of ethics CLE, and ordered the attorney to file a motion for reinstatement** upon seeking reinstatement to the Court’s bar. **Subsequently, the attorney’s state bar suspended him for 90 days, ordered attendance at ethics training, and imposed reimbursement of the bar’s costs.** [20-8002A].
9. The Court reviewed allegations that an attorney (1) *failed to file a brief* on behalf of an appellant, (2) *filed a brief with missing signatures, incorrect page numbering, and a missing table of*

*authorities, (3) failed to cite a single case in a brief, and (4) repeatedly failed to sufficiently support arguments in the attorney's briefs by citing to legal authorities. The Court ordered that the attorney be **publicly reprimanded, serve a six-month probationary period, be required to complete 12 hours CLE, and continue a mentorship relationship with an experienced veterans law attorney during the probationary period.** [20-8003A].*

10. The Court reviewed allegations that an attorney (1) *failed to reply to a show cause order* for why an appeal should not be dismissed for failure to pay a filing fee, (2) *failed to reply to an order directing the attorney to file a brief* and motion to file the brief late, (3) *filed a non-compliant motion for leave to file a brief out of time*, (4) *failed to timely file a Rule 33 statement of issues*, and (5) *filed two non-compliant motions to extend a briefing schedule*. The Court ordered that the attorney be **privately admonished, be required to complete at least 12 hours of CLE on professional responsibility, and serve a two-year probationary period.** [20-8004A].
11. 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 six hours of ethics CLE and must file a motion for reinstatement** upon seeking reinstatement to the Court's bar. [20-8005A].
12. The Court reviewed allegations that an attorney *misrepresented to the Court the extent of a RO examination order and made various erroneous assertions to the Court*. The Court **did not impose discipline** because there was no evidence to show that the attorney committed professional misconduct. [20-8006A].
13. The Court reviewed allegations that an attorney *never advised the 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 **did not impose discipline** because there was no evidence to show that the attorney committed professional misconduct. [21-8001A].
14. The Court reviewed allegations that an attorney committed professional misconduct by *pursuing a veteran's benefit claim with the Court despite knowing that the veteran was deceased*. The Court **did not impose discipline** because the grievance was unfounded. [21-8003A].
15. The Court reviewed allegations that an attorney (1) *failed to discover missing information in an incomplete record*, (2) *failed to adequately review the complete record*, and (3) *generally waited until the 'last minute' before submitting documents to the Court*. The Court **did not impose discipline** because there was no evidence to show that the attorney committed professional misconduct. [21-8004A].