

# THE NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



## 2009 ANNUAL REPORT

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This report provides statistical data of the activities of the Commission in 2009. For further information please visit the Judicial Standards Commission's web site at:

<http://www.nccourts.org/Courts/CRS/Councils/JudicialStandards/Default.asp>

## **INTRODUCTION**

The North Carolina Judicial Standards Commission was created in 1973 by virtue of an amendment to Article IV, Section 17 of the Constitution of North Carolina and the enactment of Article 30 of Chapter 7A of the General Statutes. The purpose of the Commission has been repeatedly stated by the Supreme Court, but was first voiced by Justice Exum in *In re Crutchfield*, 289 N.C. 597, 602, 223 S.E.2d 822, 825 (1975):

“[A proceeding before the Judicial Standards Commission] is neither criminal nor civil in nature. It is an inquiry into the conduct of a judicial officer, the purpose of which is not primarily to punish any individual but to maintain due and proper administration of justice in our State's courts, public confidence in its judicial system, and the honor and integrity of its judges.”

The Commission exists as the appropriate agency “for the investigation and resolution of inquiries concerning the qualifications or conduct of any justice or judge of the General Court of Justice.” N.C.G.S. §7A-374.1. It receives and investigates complaints of judicial misconduct or disability, institutes disciplinary proceedings, conducts hearings, and recommends appropriate disciplinary action to the North Carolina Supreme Court or the North Carolina Court of Appeals. The Commission itself can neither censure nor remove. It functions to aid in determining whether a justice or judge is unfit or unsuitable, and it is for the court to actually assess the disciplinary sanctions provided in N.C.G.S. §7A-376. *In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977).

The Commission also provides formal advisory opinions to judges and justices in response to written requests. The executive director and Commission counsel provide informal advisory opinions upon request and participate in new judge training and continuing judicial education.

The membership of the Commission consists of one Court of Appeals judge, who serves as the chairperson, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the Bar, elected by the Council of The North Carolina State Bar; and four citizens who are neither judges, active or retired, nor attorneys, two appointed by the Governor, one appointed by the Speaker of the North Carolina House of Representatives and one appointed by the President Pro Tempore of the North Carolina Senate.

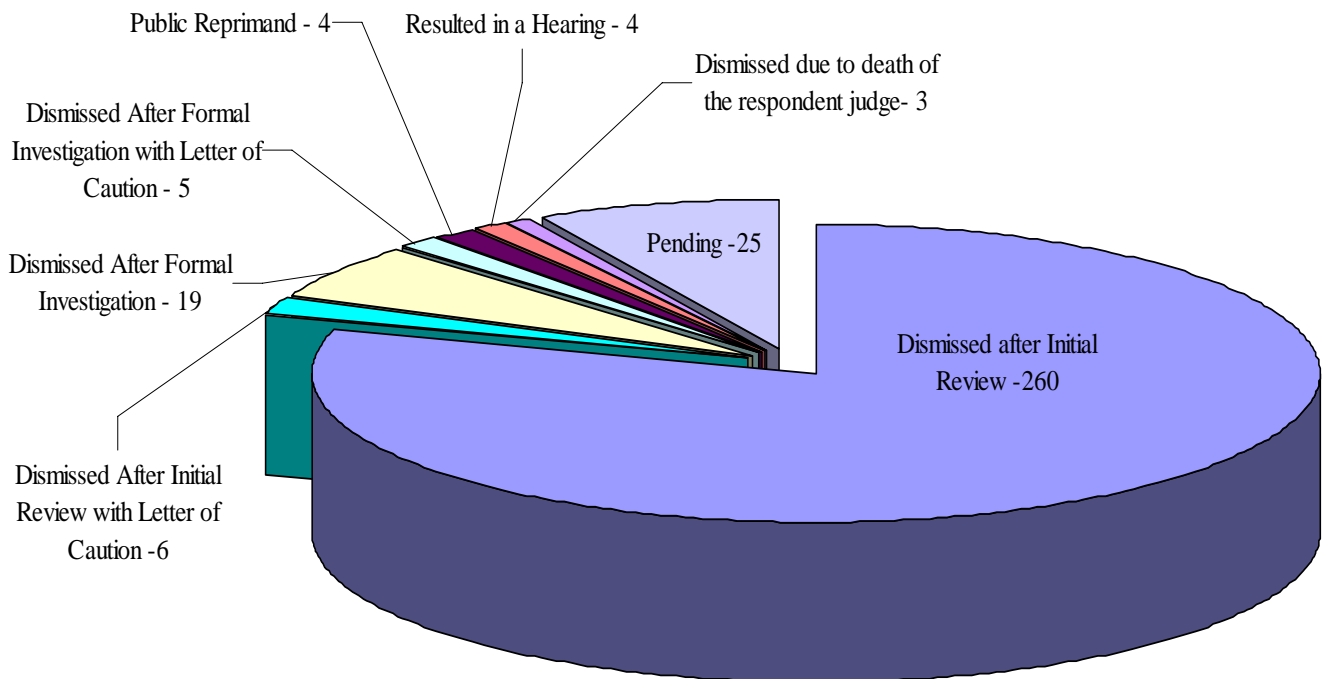
## **ACTIVITIES IN 2009**

Inquiries concerning the conduct of any justice or judge of the General Court of Justice are initiated by written complaints from members of the public or opened by the Commission acting on its own motion. 47 such complaints were pending at the beginning of 2009: 28 awaiting initial review or receipt of additional information, 16 under formal investigation, and 3 complaints pending hearing. During the year, 279 new complaints were filed or initiated by the Commission on its own motion. Formal investigations were ordered in 25 complaints. Public reprimands were ordered in 4 complaints. The Commission initiated formal disciplinary proceedings by filing a Statement of Charges in 8 inquiries. As indicated below, 25 matters were left pending at the end of 2009: 16 complaints awaiting initial review or the receipt of additional information, 5 complaints under formal investigation, and 4 inquiries pending hearing.

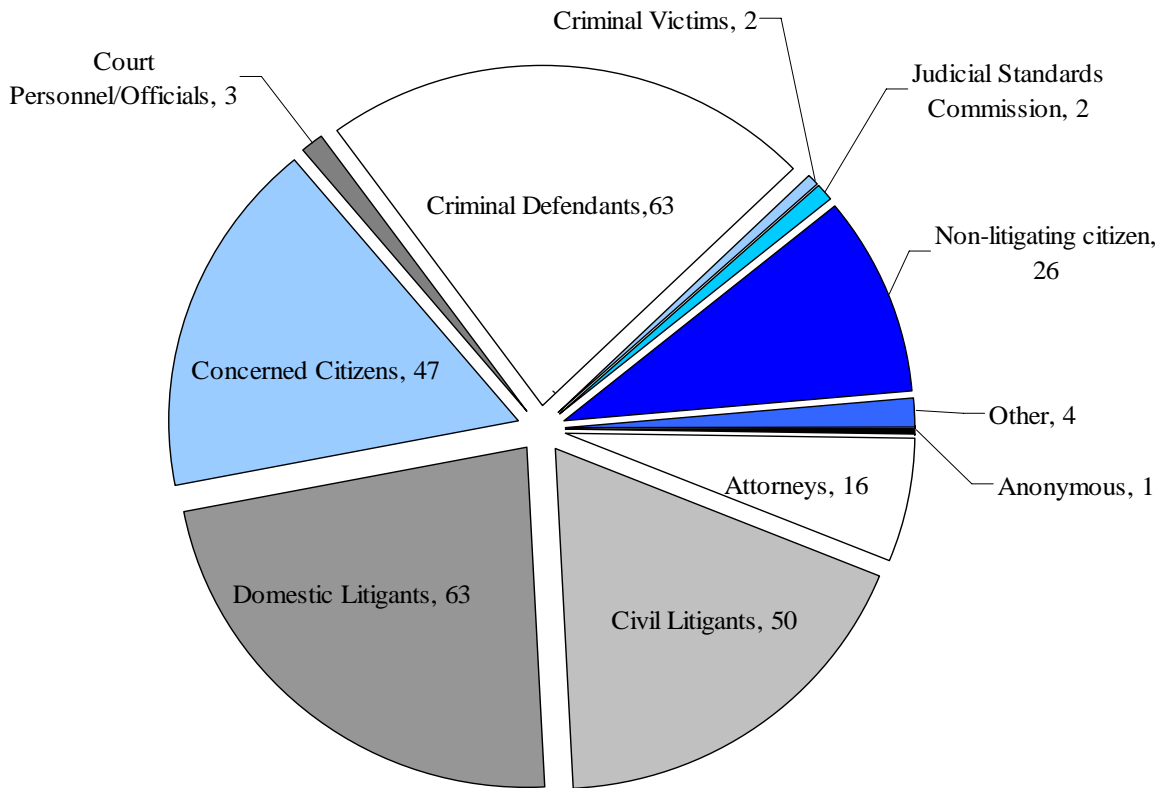
**CASELOAD 2009**

Matters pending 1/1/09	47
2009 Complaints	279
Total Workload	326
Complaints Disposed in 2009	301
Matters Pending 12/31/09	25

As in previous years, the majority of complaints were terminated by the Commission after initial review. Of the 301 complaints disposed of during the year, 260 were dismissed after initial review, 6 were dismissed after initial review with a letter of caution, 19 were dismissed after formal investigations, and 5 were dismissed after a formal investigation with a letter of caution. Four public reprimands were ordered by the Commission. Three disciplinary proceedings were filed addressing eight complaints involving two judges. Two hearings were conducted by the Commission in 2009 addressing 4 complaints. As a result of these hearings, the Commission filed one recommendation for removal with the North Carolina Supreme Court and entered one order finding a recommendation for discipline was not merited.

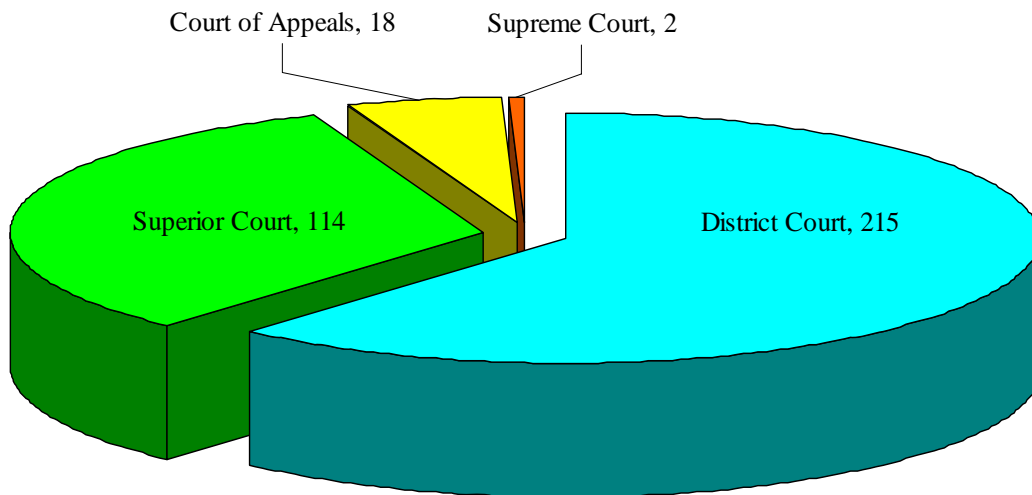
**COMPLAINT DISPOSITION 2009**

**SOURCES OF COMPLAINTS**



Some complaints were provided by more than one complainant.

**CATEGORIES OF RESPONDENT JUDGES**



Some complaints named more than one judge or justice.

**COMPLAINT ALLEGATIONS**

Abuse of Power	86
Bias	132
Campaign conduct	2
Conflict of Interest	17
Criminal Conduct	2
Delay	36
Demeanor	23
Denied Fair Hearing	36
Disability	0
Ex Parte Communication	28
Failed Administrative Duty	4
Fraud/Corruption	11
Inappropriate Comments	43
Legal/Procedural Error	227
Other	32
Prestige Misuse	7
<b>TOTAL</b>	<b>686</b>

Some complaints contained more than one allegation.

**FIVE YEAR COMPARATIVE ANALYSIS**

Year	Pending from Previous Years	New	Pending at Year End	Dismissed After Initial Review	Formal Investigation Ordered	Dismissed After Formal Investigation	Private Letter of Caution	Public Reprimand	Statement of Charges Filed	Stipulated Dismissal	Hearing Conducted	Dismissed After Hearing	Recommendation For Discipline Filed
2009	47	279	25	259	25	19	11	4	3 (8)	2 (3)*	2 (4)	1	1 (3)
2008	37	306	47	257	33	11	22	3	5	0	3	3	1
2007	67	262	37	260	15	8	4	3	15	1	3	1	2
2006	34	268	67	208	24	9	7	0	9	1	2	0	1
2005	33	248	34	226	23	7	12	0	2	0	2	1	2
Total		1363		1210	120	54	56	10	38	4	12	6	7
Avg		272.6		242	24	10.8	11.2	2	7.6	.8	2.4	1.2	1.4

*number in ( ) indicates total number of complaints addressed*

*\* dismissed due to death of the respondent judge*

## APPENDIX A

**PAST AND PRESENT MEMBERS**  
**OF THE**  
**JUDICIAL STANDARDS COMMISSION**

**Judges Appointed by the Chief Justice**

**Court of Appeals**

Hon. Walter E. Brock  
 Hon. Edward B. Clark  
 Hon. Gerald Arnold  
 Hon. Clifton E. Johnson  
 Hon. Sidney S. Eagles, Jr.  
 Hon. Jack L. Cozort  
 Hon. John B. Lewis, Jr.  
 Hon. John C. Martin \*

**Superior Court**

Hon. George M. Fountain  
 Hon. W. Douglas Albright  
 Hon. James M. Long  
 Hon. Robert D. Lewis  
 Hon. Marvin K. Gray  
 Hon. James L. Baker, Jr.  
 Hon. Richard D. Boner  
 Hon. Paul L. Jones \*  
 Hon. Tanya T. Wallace \*

**District Court**

Hon. E. D. Kuykendall, Jr.  
 Hon. C. Walter Allen  
 Hon. L. T. Hammond, Jr.  
 Hon. W. S. Harris, Jr.  
 Hon. A. Elizabeth Keever  
 Hon. Joyce A. Hamilton  
 Hon. Tanya T. Wallace  
 Hon. Rebecca B. Knight \*  
 Hon. Alexander Lyerly \*

**Attorneys Elected by the State Bar Council**

Mr. Emerson T. Sanders  
 Mr. Harold K. Bennett  
 Mr. Robert G. Sanders  
 Mr. Jerome B. Clark, Jr.  
 Mr. E. K. Powe  
 Mr. Rivers D. Johnson, Jr.  
 Mr. Louis J. Fisher, Jr.  
 Mr. William K. Davis  
 Mr. Z. Creighton Brinson  
 Mr. Charles M. Davis  
 Mr. Ronald Barbee  
 Mr. William O. King  
 Mr. Steven Michael  
 Mr. Dudley Humphrey \*  
 Mr. L.P. Hornthal, Jr. \*  
 Mr. Edward T. Hinson, Jr. \*  
 Mr. William H. Jones, Jr. \*

\* *current member*

**Citizens Appointed by the Governor**

Mr. Marvin B. Koonce, Jr.  
 Mrs. George L. Hundley  
 Ms. N. Susan Whittington  
 Mrs. Veatrice C. Davis  
 Ms. Pamela S. Gaither  
 Mr. Albert E. Partridge, Jr.  
 Mrs. Margaret H. Almond  
 Mr. Melvin C. Swann, Jr.  
 Mr. Roland W. Leary  
 Mr. James L. Mebane  
 Mr. T. Ray Warren  
 Mrs. Linda Brown Douglas \*  
 Mr. Arthur B. Schools, Jr. \*

**Citizens Appointed by the General Assembly**

Hon. Todd W. Tilley \*  
 Mr. R. Wayne Troutman \*

## APPENDIX B

**SUPREME COURT OPINIONS**  
**REGARDING RECOMMENDATIONS OF THE**  
**JUDICIAL STANDARDS COMMISSION**

*In re Crutchfield*, 289 N.C. 597, 223 S.E.2d 822 (1975)  
*In re Edens*, 290 N.C. 299, 226 S.E.2d 5 (1976)  
*In re Stuhl*, 292 N.C. 379, 233 S.E.2d 562 (1977)  
*In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977)  
*In re Hardy*, 294 N.C. 90, 240 S.E.2d 367 (1978)  
*In re Martin*, 295 N.C. 291, 245 S.E.2d 766 (1978)  
*In re Peoples*, 296 N.C. 109, 250 S.E.2d 890 (1978)  
*In re Martin* 302 N.C. 299, 275 S.E.2d 412 (1981)  
*In re Hunt*, 308 N.C. 328, 302 S.E.2d 235 (1983)  
*In re Kivett*, 309 N.C. 635, 309 S.E.2d 422 (1983)  
*In re Wright*, 313 N.C. 495, 329 S.E.2d 668 (1985)  
*In re Griffin*, 320 N.C. 163, 357 S.E.2d 682 (1987)  
*In re Bullock*, 324 N.C. 320, 377 S.E.2d 743 (1989)  
*In re Hair*, 324 N.C. 324, 377 S.E.2d 749 (1989)  
*In re Greene*, 328 N.C. 639, 403 S.E.2d 257 (1991)  
*In re Bullock*, 328 N.C. 712, 403 S.E.2d 264 (1991)  
*In re Sherrill*, 328 N.C. 719, 403 S.E.2d 255 (1991)  
*In re Harrell*, 331 N.C. 105, 414 S.E.2d 36 (1992)  
*In re Martin*, 333 N.C. 242, 424 S.E.2d 118 (1993)  
*In re Bissell*, 333 N.C. 766, 429 S.E.2d 731 (1993)  
*In re Hair*, 335 N.C. 150, 436 S.E.2d 128 (1993)  
*In re Cornelius*, 335 N.C. 198, 436 S.E.2d 836 (1993)  
*In re Bullock*, 336 N.C. 586, 444 S.E.2d 299 (1994)  
*In re Leonard*, 339 N.C. 596, 453 S.E.2d 521 (1995)  
*In re Martin*, 340 N.C. 248, 456 S.E.2d 517 (1995)  
*In re Greene*, 340 N.C. 251, 456 S.E.2d 516 (1995)  
*In re Ammons*, 344 N.C. 195, 473 S.E.2d 326 (1996)  
*In re Fuller*, 345 N.C. 157, 478 S.E.2d 641 (1996)  
*In re Martin*, 345 N.C. 167, 478 S.E.2d 186 (1996)  
*In re Renfer*, 345 N.C. 632, 482 S.E.2d 540 (1997)  
*In re Renfer*, 347 N.C. 382, 493 S.E.2d 434 (1997)

*In re Tucker*, 348 N.C. 677, 501 S.E.2d 67 (1998)  
*In re Tucker*, 350 N.C. 649, 516 S.E.2d 593 (1999)  
*In re Brown*, 351 N.C. 601, 527 S.E.2d 651 (2000)  
*In re Hayes*, 353 N.C. 511, 546 S.E.2d 376 (2001)  
*In re Stephenson*, 354 N.C. 201, 552 S.E.2d 137 (2001)  
*In re Brown*, 356 N.C. 278, 570 S.E.2d 102 (2002)  
*In re Hayes*, 356 N.C. 389, 584 S.E.2d 260 (2002)  
*In re Hill*, 357 N.C. 559, 591 S.E.2d 859 (2003)  
*In re Brown*, 358 N.C. 711, 599 S.E.2d 502 (2004)  
*In re Braswell*, 358 N.C. 721, 600 S.E.2d 849 (2004)  
*In re Hill*, 359 N.C. 308; 609 S.E.2d 221 (2005)  
*In re Harrison*, 359 N.C. 415; 611 S.E.2d 834 (2005)  
*In re Daisy*, 359 N.C. 622, 622 S.E.2d 529 (2005)  
*In re Ballance*, 361 N.C. 338, 643 S.E.2d 584 (2007)  
*In re Royster*, 361 N.C. 560, 648 S.E.2d 837 (2007)  
*In re Allen*, 362 N.C. 73, 653 S.E.2d 423 (2007)  
*In re Badgett*, 362 N.C. 202, 657 S.E.2d 346 (2008)  
*In re Badgett*, 362 N.C. 482, 666 S.E.2d 743 (2008)