

JUDICIAL CONDUCT BOARD



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P.O. Box 310
RUTLAND, VT 05702-0310

ANDREW H. MAASS, ESQ.
CHAIR

REPORT OF THE JUDICIAL CONDUCT BOARD FY 2016

The Judicial Conduct Board is required by Rule 6(11) of the Rules for Disciplinary Control of Judges to issue an annual report to the Supreme Court which “shall include statistics and any recommendations for rule changes and shall be a public document.” The following is the Annual Report for FY 2016 (July 1, 2016 to June 30, 2017) submitted in accordance with this Rule.

Pursuant to Rule 4 of the Rules for Disciplinary Control of Judges, the Supreme Court makes appointments to the Judicial Conduct Board, which shall consist of nine members: three judges, active or retired other than an active justice of the Supreme Court, three attorneys admitted to the practice of law in this state, and three lay persons not admitted to the practice of law in this state or any other state, nor an active, retired or resigned judge.

The current composition of the Board (as of January 1, 2017) is as follows:

<u>Judicial Members</u>	<u>Attorney Members</u>	<u>Lay Members</u>
Judge David Howard	Andrew H. Maas, Esq. (Chair)	Kelly Austin
Judge William Cohen	Barbara Blackman, Esq. (Vice Chair)	Wes Ward
Judge Mary Miles Teachout (appointed May 15, 2017)	Michael Donofrio, Esq.	Dr. Marcy Jones

The Board’s Administrative Assistant is Lynn Wdowiak, RP®.

The mailing address for the Board is: Judicial Conduct Board
P.O. Box 310,
Rutland, Vermont 05702-0310.

The phone number for the Board is (802) 786-1063.

Rule Changes and Recommendations.

The Board recommended changes to the Financial Reporting form completed annually by judges and recommended an amendment to section B(1) of the “Application of the Code of Judicial Conduct” to remove the exemption for financial reporting for continuing part-time judges who are defined under the Judicial Code as “judges of probate and assistant judges.” The proposed amendment would require probate and assistant judges to submit a Financial Disclosure form. The revised Financial Reporting form was adopted for use for calendar year 2017. The comment period for the proposed order amending section B(1) ended February 6, 2017. The Board submitted to the Vermont Supreme Court the comments it received and offered its comment.

Complaint Statistics FY 2016

From July 1, 2016 through June 30, 2017 the Board received forty (40) new complaints, two requests to re-open old dockets and had eleven still-pending complaints from FY 2015. One open complaint from February, 2016 was in the Formal Complaint stage.

Of these 53 complaints:

- Thirty eight (38) were dismissed after Initial Inquiry pursuant to Rule 8(1) of the Rules for Disciplinary Control of Judges:
 - 15 were either disagreements with judicial rulings or other issues for appeal;
 - 6 were complaints about persons not under the jurisdiction of the Board;
 - 5 did not identify any unethical conduct of and/or any specific judge;
 - 4 were dissatisfactions with the timeliness of decisions;
 - 2 were complaints about conduct not within the time limits specified in Rule 3(1) of the Rules for Disciplinary Control of Judges (“Rules”); and
 - 7 were other complaints dismissed after Initial Inquiry.
- One (1) was dismissed with a non-public written warning issued pursuant to Rule 8(2) of the Rules;
- Two (2) continued to the Investigation Phase pursuant to Rule 7(2) of the Rules and are still pending;
- Eleven (11) were still pending in the Initial Inquiry phase pursuant to Rule 7(1) of the Rules for Disciplinary Control of Judges as of June 30, 2017; and
- One (1) resulted in a contested formal hearing (see below).

Formal Hearing.

A three-day contested hearing was held March 20, 2016 through March 22, 2016 regarding the Formal Complaint held over from FY 2015 and pursuant to Rules 9(5)-9(11) of the Rules for Judicial Control of Judges. The Hearing Panel consisted of Chair Steven Adler, Esq., (Presiding Officer), Judge Kathleen Manley, Judge William Cohen, Vice Chair Andrew H. Maass, Esq., Barbara Blackman, Esq., Kelly Austin, Wes Ward, and Dr. Marcy Jones.¹ Chair Adler and Judge Manley presided beyond their expired Term with authorization from the Vermont Supreme Court.

¹ Judge David Howard participated in the first day of hearing, but fell ill and was unable to continue, so he did not participate in deliberations, or in determining the Findings of Fact and Conclusions of Law.

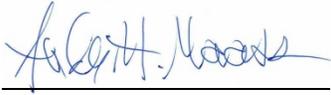
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Pursuant to Rule 10(1) of the Rules, the hearing panel issued on April 24, 2017 its written order containing its findings of fact, conclusions of law and the sanction imposed. No appeal was taken and on May 24, 2017 the Supreme Court issued a published decision adopting the findings of fact, conclusions of law and sanction imposed in its entirety. *See In re Assistant Judge Paul Kane, 2017 VT 48.*

Dated September 13, 2017.

Respectfully submitted.

JUDICIAL CONDUCT BOARD

By: 

Andrew H. Maass, Chair