

Workers' Compensation Ethics Advisory Committee

Annual Report, 2016



**State of California
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I. The Ethics Advisory Committee: A Profile

A. The Committee's Functions

The Workers' Compensation Ethics Advisory Committee (EAC) is a state committee independent of the Division of Workers' Compensation (DWC). The EAC is charged with reviewing and monitoring complaints of misconduct filed against workers' compensation administrative law judges (WCALJs, or judges).

As civil servants, WCALJs are not subject to review by the California Commission on Judicial Performance, the agency responsible for investigating misconduct complaints directed at judges serving on the Supreme, Superior, and Appellate courts. The EAC's authority and duties are set forth in the California Code of Regulations (CCR), Title 8, Sections 9722 to 9723.

The EAC meets at regular intervals to review complaints of judicial misconduct and to make recommendations to the Chief Judge and the administrative director of the DWC if a complaint warrants a formal investigation by the administrative director's staff.

B. Committee Membership

Pursuant to CCR, Title 8, Section 9722, the EAC is composed of nine members, each appointed by the administrative director of the DWC for a term of four years.

The composition of the EAC reflects the constituencies within the California workers' compensation community and consists of members as outlined in Box 1.

Box 1. Members of the Ethics Advisory Committee

- A member of the public representing organized labor
- A member of the public representing insurers
- A member of the public representing self-insured employers
- An attorney who formerly practiced before the Workers' Compensation Appeals Board (WCAB) and who usually represented insurers or employers
- An attorney who formerly practiced before the WCAB and who usually represented applicants (injured workers)
- A presiding judge
- A judge or retired judge
- Two members of the public outside the workers' compensation community

The EAC meets four times a year at the DWC headquarters located at 1515 Clay Street, in Oakland, California. Although EAC meetings are open to the public, the Committee meets in executive session when it engages in the review and discussion of actual complaints, and that portion of the proceedings is closed to the public.

The EAC is assisted in carrying out its functions by an attorney and secretary on the staff of the DWC.

II. Complaint Procedures

A. Filing a Complaint

Anyone may file a complaint with the EAC. Complaints may be submitted anonymously, but all complaints must be presented in writing.

An EAC case is typically opened after the DWC receives a letter from an injured worker, an attorney, or a lien claimant (i.e., medical provider) who has been a party to a proceeding before a WCALJ employed by the DWC, and the complaint alleges ethical misconduct by that judge. The DWC then sends a letter to the complainant acknowledging that the complaint was received by the EAC.

Each complaint that alleges misconduct by a judge is formally reviewed by the EAC. To ensure objectivity by the reviewing members on the EAC, the committee adopted a policy requiring that the names of the complainant, the WCALJ, and witnesses as well as the specific DWC office where the alleged misconduct occurred be redacted from the copies of complaints reviewed at each meeting.

All complaints that fail to allege facts that constitute WCALJ misconduct are forwarded to the Chief Judge with a recommendation that no further action be taken on the complaint. In these cases, the complainant is advised in writing that the EAC considered the complaint and, inasmuch as no misconduct was either alleged or established, decided no further action is appropriate, and that the matter has been closed.

B. Investigation by the Chief Judge or Administrative Director

When a complaint makes allegations that, if true, would constitute misconduct by a WCALJ, the EAC will recommend that the Chief Judge conduct an investigation. After the Chief Judge's staff completes its investigation, the EAC is briefed on the investigation's findings as well as any disciplinary or other remedial action taken. The complainant is advised in writing that appropriate corrective action has been taken and that the matter has been closed.

Any disciplinary action taken against a WCALJ by the Chief Judge or administrative director is in the form required by Government Code Sections 19574 or 19590(b). The right of the Chief Judge or the administrative director under CCR, Title 8, Section 9720.1 et seq., to enforce ethical standards among judges does not replace or reduce a WCALJ's procedural rights under the State Civil Service Act (Government Code Section 18500 et seq.). Furthermore, the rights and obligations of the Chief Judge or the administrative director and the WCALJ concerning the probationary period mandated by Government Code Sections 19170 through 19180 are not affected.

III. Complaint Digest

A. Complaint Statistics for Calendar Year 2016

1. *Number of Workers' Compensation Administrative Law Judges*

The DWC has 24 district office locations, each with a presiding judge (PJ). In 2016, the DWC had authority over 167 active judges (see Table 1).

Table 1. WCALJ Positions (as of December 31, 2016)

| | |
|--------------------------------|-----|
| Number of presiding judges | 24 |
| Number of judges serving | 143 |
| Total number of judges serving | 167 |

2. New Complaints

The EAC considered a total of 39 of the 44 new complaints it received in calendar year 2016, in addition to 6 complaints pending from 2015. Nine complaints filed in 2016 are pending ongoing investigation, and five pending complaints were filed after the EAC final calendar meeting for 2016. The EAC also resolved 6 complaints pending ongoing investigation in 2015. The complaints set forth a wide variety of grievances. A large proportion of the complaints alleged legal error not involving judicial misconduct or expressed dissatisfaction with a judge's decision. (See Table 2.)

Please note the following definitions: "pending ongoing investigation" refers to ongoing complaints for which investigations have been requested and the investigations have not yet concluded. Complaints for 2016 received by the EAC after its final meeting for calendar year 2016 are classified as "pending" or "pending consideration."

| | |
|---|----|
| New complaints filed in 2016 | 44 |
| Complaints from 2015 resolved in 2016 | 6 |
| Complaints from 2015 pending consideration (filed after last meeting in 2015) | 6 |
| New complaints considered in 2016 | 39 |
| Total complaints resolved in 2016 | 42 |
| New complaints pending ongoing investigation | 9 |
| New complaints pending consideration (filed after the last meeting in 2016) | 5 |

3. Groups within the Workers' Compensation Community That Filed Complaints

The workers' compensation community is composed of a variety of groups, including, but not limited to, attorneys, injured workers, claims administrators, hearing representatives, and lien claimants (medical providers). A wide variety of these parties filed new complaints during 2016, but unrepresented employees make up by far the largest group of complainants. (See Table 3.)

| | |
|--|---------------|
| Employees represented by attorneys | 5 complaints |
| Employees not represented | 32 complaints |
| Anonymous | 1 complaint |
| Applicant attorneys | 1 complaint |
| Defense attorneys | 0 complaints |
| Claims administrators | 0 complaints |
| Hearing representatives | 3 complaints |
| Lien claimants (medical providers) | 0 complaints |
| Attorneys representing a lien claimant | 1 complaint |
| Other (Employer) | 1 complaint |

4. Digest of Actions Taken on Complaints

In 2016, 44 new complaints were filed by the workers' compensation community, of which the Committee considered 39; the 5 complaints not yet considered were filed after the last EAC meeting. Of the 39 new complaints considered, the Committee resolved 30, and 9 complaints remain under investigation. The 6 complaints filed at the end of 2015 were considered and resolved in 2016, as well as 6 complaints with pending ongoing investigations in 2015, for a total of 42 complaints resolved in 2016. (For summaries of these complaints, see Section IV, A, Complaints Resolved in 2016.) Of the 42 resolved complaints, the EAC identified 6 complaints resulting in judicial misconduct for which they recommended further action by the Chief Judge or the administrative director. Of the 39 new complaints considered, 16 resulted in investigations, of which 7 were concluded. The 6 complaints filed at the end of 2015 led to 3 investigations.

Table 4. List of Actions Taken on Complaints in 2016

| | |
|---|----|
| New complaints filed | 44 |
| New complaints considered | 39 |
| New complaints resolved | 30 |
| New complaints pending ongoing investigation | 9 |
| New complaints pending consideration (filed after last meeting) | 5 |
| Total complaints resolved (filed in 2015 and 2016) | 42 |
| Complaints resulting in finding of no misconduct | 36 |
| Complaints resulting in finding of misconduct | 6 |
| Total complaints investigated in 2016 | 19 |
| Complaint investigations filed in 2016 | 16 |
| Complaint investigations filed in 2015 | 3 |

IV. Description of Complaints and Actions Taken

A. Complaints Resolved in 2016 (42 total)

1. The complainant, a Return-to-Work counselor, alleged that the judge approved a C&R that included the applicant's eligibility for a Supplemental Job Displacement Benefit voucher. The complainant claimed this prevented the applicant from applying for the \$5,000 Return-to-Work Supplement Program, for which the applicant would otherwise have been eligible.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

2. The complainant, an unrepresented applicant, alleged that on numerous occasions the judge was not prepared to discuss the complainant's case. The complainant alleged that the judge refused to listen to anything that the complainant said and would postpone the hearing again. The judge asked whether the complainant wanted to withdraw the complainant's DOR. The complainant claimed that the judge purposely delayed the complainant's DOR and therefore acted unethically.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

3. The complainant, an unrepresented applicant, alleged that the judge tried to force the complainant into an unwanted agreement. The complainant alleged that the judge tried to force the complainant to accept false documents. The complainant claimed that the judge was aware of fraudulent reports but tried to force the complainant to accept the fraud.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

4. The complainant, an unrepresented applicant, alleged being repeatedly “stonewalled” by the judge on a number of issues on which the complainant had evidence to present. The complainant stated that the judge indicated being new to the bench. The complainant complained that the judge repeatedly allowed opposing counsel to derail any rulings and suggested that the complainant’s evidence was without merit. The complainant complained of having requests repeatedly ignored, whereas the defense requested and was granted a new QME. In addition, the defense counsel requested a deposition, in which the attorney threatened to destroy the complainant and made other threats. The complainant claimed that the judge’s continuing lack of due diligence helped the defense to practice medical terrorism in the case. The complainant alleged that the judge asked, “Which disability are you claiming—you have more than one?” The complainant felt insulted and discriminated against in front of other people.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division’s ethics regulations.

5. The complainant, an unrepresented applicant, asserted the right to disagree with the decisions made regarding the claim. However, the complainant complained that no one told the complainant anything about the case.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division’s ethics regulations

6. The complainant, an unrepresented applicant, alleged that the judge intentionally misrepresented the beginning of trial dates on the Report and Recommendation. The complainant also claimed that the judge failed to provide the complainant with a copy of the Minutes of Hearing and Summary of Evidence for all trial dates. The complainant alleged that the judge failed to identify the employer’s bad faith personnel action as a cause of depression and anxiety. The complainant alleged that the judge knowingly

misrepresented facts, concealed information, and committed acts of fraud in order to violate the complainant's due process rights and obstruct justice.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

7. The complainant, a medical lien representative, alleged that the defendant sent the judge an ex parte letter, dated June 5, 2015. The letter was uploaded into EAMS (Electronic Adjudication Management System) by the judge's secretary as a Petition for Dismissal. The complainant claimed that this letter was acted upon by the judge by the judge's issuance of an Order Denying Lien dated June 24, 2015. Complainant complained that the judge failed to notify the opposing party of this ex parte communication or to allow a response to the opposing party, in violation of Canon 3 in the California Code of Judicial Ethics.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the committee identified violations of Canons 1, 2, and 3 of the Code of Juridical Ethics and recommended to the CJ that further appropriate action be taken.

8. The complainant, an applicant's attorney, alleged that the judge violated the California Code of Judicial Ethics by stating that the complainant's argument was "silly." The complainant alleged having raised the right to call the defense attorney as a hostile witness under Evidence Code 776. The judge noted in the minutes of the hearing the view that complainant's argument was silly. The complainant complained that this comment was made in front of all the witnesses.

After the complainant told the judge about having won a few cases on Medical Provider Network (MPN) access standards violations against this defendant, the judge indicated, "Good for you, but it's not going to be the case with this judge." After the complainant indicated that a petition for removal could be filed, the judge replied, "Go ahead—I

have friends in the Recon Unit.” The complainant also alleged that the judge gave legal advice to the complainant’s client, undermining the complainant’s competency and professionalism. The complainant alleged that the judge told the client that a chiropractor is not needed as a Primary Treating Physician; rather, the client needs an orthopedic hand surgeon to treat the hand. The complainant alleged that the judge failed to take a neutral position, stating that the judge would rule against the complainant.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the committee identified a violation of Canon 1, 3 of the Code of Juridical Ethics and recommended to the CJ (Chief Judge) that further appropriate action be taken.

9. The complainant, an anonymous complainant, attached seven 2015 WCAB decisions claiming that it found an abuse of discretion by the judge in issuing improper orders requiring the appearance of persons under threat of sanctions and/or denying due process or showing bias. The complainant alleged that the findings show that the judge failed to respect and comply with the law.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the committee identified violations of Canons 1, 2, and 3 of the Code of Juridical Ethics and recommended to the CJ that further appropriate action be taken.

10. The complainant, an anonymous complainant, alleged that the judge failed to respect and comply with the law and failed to act in a manner that promotes public confidence. The complainant alleged that the judge had a reputation for issuing notices, orders, and reports on reconsideration/removal that contain substantially false and misleading statements of facts. The complainant attached a WCAB panel decision reversing the judge’s decision. The complainant complained that the judge’s continuing pattern and practice of disregarding the rights of lien claimants reduced the

WCAB to a mockery.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the committee identified violations of Canons 1, 2, and 3 of the Code of Juridical Ethics and recommended to the CJ that further appropriate action be taken.

11. The complainant, an anonymous complainant, alleged that the judge failed to respect and comply with the law. Complainant complained that the judge failed to act in a manner that promotes confidence in the integrity and impartiality of the judiciary. The complainant alleged that the judge was discourteous in the treatment of the public. Complainant complained that the judge has an established reputation for issuing Notices, Orders, and Reports on Reconsideration that contain substantially false and misleading statements of fact. The complainant attached several Appeals Board decisions claiming that the decisions found the judge to have made several false and misleading statements to the Board in the Report and Recommendation.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the committee identified violations of Canons 1, 2, and 3 of the Code of Juridical Ethics and recommended to the CJ that further appropriate action be taken.

12. The complainant, an unrepresented spouse of a decedent, alleged that the judge violated the complainant's rights and used the judge's power to overturn the law. The complainant alleged that the judge deleted information in the court computer as it pertained to the Petition for Reconsideration. Complainant alleged that this judge, along with another judge and with other parties, committed fraud and perjury and falsified documents.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

13. The complainant, an unrepresented spouse of a decedent, alleged that the judge lied and helped to commit conspiracy and fraud. On December 1, 2008, the judge said that the matter at hand was proceeding to trial. The judge asked the attorneys whether they had any documents pertaining to insurance, and both attorneys replied that they did not. The judge told the complainant that the complainant won the case, stood up, and shook the complainant's hand and expressed regret over the complainant's loss. The complainant claimed that the judge granted an order to pay the complainant the settlement, and the parties indicated that they would be in touch with the complainant. However, the complainant complained that they did not contact the complainant. The complainant contacted the attorneys, but they refused to pay. When the complainant filed to bring the parties back, the attorneys did not come to court and, instead, sent two substitute attorneys. The complainant claimed that the judge lied by stating that the judge never told the complainant that the complainant won the case. The complainant alleged that the judge deleted the information regarding the decedent.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

14. The complainant, a represented applicant, alleged judicial misconduct, intentional misconduct, duress, and discrimination. The complainant complained that the judges had knowledge that the complainant was diagnosed with a mental disorder, but engaged in conduct that was harmful to the well-being of complainant. The complainant claimed that the judge had all the evidence without any opposing evidence, but the judge didn't accept any of it. Therefore, the complainant claimed to have been discriminated against. Complainant alleged that various provisions were added on that were not part of the original pre-printed C&R. The complainant claimed to have never received any money from the C&R. Complainant claimed duress and intentional misconduct, fraud, and coercion and being taken advantage of. The complainant claimed that the judge exchanged complainant's lifetime pension for an

amount less than the correct amount.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

15. The complainant, an unrepresented applicant, alleged that the judge had a close personal relationship with the chairman of the Board of Supervisors, a named defendant and witness. Complainant claimed that the relationship should have been grounds to recuse the judge because of the appearance of impropriety. Complainant claimed that the defendant used this relationship to force the complainant to accept a settlement without a trial, to avoid having this defendant testify regarding serious illegal conduct in the agency during the term of the defendant's elected office. Complainant complained that the judge ignored the complainant's letter regarding the defendant's violation of material stipulations stated in the C&R agreement. The complainant asserted that repeated acts of unethical, illegal, and harassing conduct by the defendant have been ignored. The complainant claimed that the defendant had sent sheriffs to the complainant's home to threaten and intimidate the complainant into silence. The complainant complained that the defendant, the presiding judge, and the trial judge are all aware of this prohibited relationship.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

16. The complainant, an unrepresented applicant, alleged that prior to the trial date, this judge assigned the trial to himself. When the complainant protested, the judge reassigned the case to a different judge, who was not only a close friend but also a client of the defendant. The complainant alleged that the judge's own case was a very public and long-term case in which the judge told the press that the judge was indebted to this defendant. The complainant complained that this case should have been assigned to a different judge.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

17. The complainant, an unrepresented applicant, claimed to have filed for a civil restraining order against several judges, alleging that "too many people wants me dead, just because a lot of money is involved." In his request for a restraining order, the complainant stated that the judge did not treated complainant with respect and that the judge stated, with attitude, to "stop messing around with the wrong people." The complainant complained to the presiding judge. The complainant alleged that a new judge was assigned. The complainant claimed that, on the day of the new hearing, eight computers were stolen from the county and that the computers contained the complainant's personal information. The complainant wrote that, should something ever happen to the complainant after the cases are settled, this "incident" will be responsible. The complainant claimed that, at the hearing, this new judge had "whispered" something to the defense and that the defense attorney responded with a "signal" using his right arm: "we are killing him." The complainant claimed that the judge turned to the left and smiled a little. The complainant claimed to have made several complaints to the presiding judge and sent in documents. Four days after the court received the documents, the sheriff called the complainant to ensure that the complainant was the one who sent the package because the sheriffs were scared; the sheriff indicated that his office thought it was a bomb. The complainant claimed that the presiding judge did not help the complainant and felt that the complainant's life was in danger. The complainant references the judge talking to "the killer" or the "the killer's brother."

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

18. The complainant, an unrepresented complainant, alleged that the judge was involved in intentional misconduct, juridical misconduct, and fraud. The complainant

alleged that the judge concealed physicians' reports. Complainant also claimed that the judge failed to ensure complainant's rights to a life-time pension, because of a brain injury, which the complainant contends is a total disability. The claimant complained that the judge failed to make sure that the settlement was adequate and allowed a settlement with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

19. The complainant, an unrepresented applicant, alleged that a status conference was set to fix the mistakes made by a prior judge. The complainant alleged that this judge was complicit with the other judge by failing to disqualify when the law required it. Complainant complained that the judge was involved in intentional and judicial misconduct. Complainant claimed that the judge conspired for the purpose of denying compensation, including life-time pension benefits.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

20. The complainant, an unrepresented applicant, alleged that the judge was negligent because the judge acted in a manner that contradicted the Labor Code. The complainant complained that the judge allowed the defendant to cancel an appointment with a QME and was sent to an orthopedic AME instead.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

21. The complainant, an unrepresented applicant, complained that the judge showed no compassion for the complainant's pain. The judge told the complainant, in a phone conference in 2015, that it should not be too long before the case is settled. The judge

made the complainant call the complainant's attorney. However, the complainant's calls went unanswered. The complainant complained of being kept in the dark too long. The complainant complained that there should be a statute of limitations and that this is appalling and stressful. The complainant would really appreciate settling the claim. The complainant was injured twelve years earlier and had surgery four years ago. The physicians have cleared the complainant, who has completed therapy. The complainant cannot understand what is holding up the settlement. The complainant complained that it has been a long and hard road. The complainant and now the complainant has to file for bankruptcy. The complainant would like to have some kind of answer.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations

22. The complainant, an unrepresented applicant, alleged that the filing of a complaint with the EAC led to further harassment and retaliation by the PJ. The complainant complained of having been subjected to bias and differential treatment by the PJ and the judge's staff. These actions allegedly included notices being sent to the wrong address, violating complainant's due process rights. The complainant alleged being denied hearings by intentionally misfiling DORs as correspondence and refusing to set hearings for complainant. The complainant alleged having received a mislabeled Notice of Hearing that was returned to the Board because the clerk neglected to put a complete address on the mailing. When the Notice was returned to the Board as undeliverable based on the board's mistake, the hearing was not reset to preserve the complainant's rights to disqualify or take any action at all based on the time limitations. The complainant alleged that the Board did not submit the Petition for Disqualification as required and instead attempted to have the hearing more than 30 days after the disqualification was submitted. The PJ only agreed to submit the disqualification after complainant submitted the objection in writing to the judge's actions to the Administrative Director. Even then, the judge stated that it would be denied. The complainant would like a true investigation into the allegations by an outside party

unbiased and untainted by cronyism.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

23. The complainant, an unrepresented applicant, alleged that there was an abuse of authority in the exercise of judicial duties by condoning the fraud committed by the defense attorneys for the purpose of denying benefits. The complainant provided a history of the industrial injury to the left thumb, wrist, and elbow. The complainant claimed that the application was amended to include the right thumb, the right wrist, and the right elbow. At the conference, on the pretrial conference statement, defense stipulated that the right thumb was an accepted body part. The complainant claimed that the judge erroneously concluded in the Findings and Award that the complainant did not file a claim for the right hand injury. The complainant filed a Petition for Reconsideration. The defense attorney filed a response stating that the defense never accepted the claim for bilateral upper extremities. The complainant filed a Petition for Sanctions against defendant for intentionally and knowingly making a false statement of material facts in connection to the case for the purpose of denying entitlement to compensation. The Petition for Sanctions came before the judge who ruled that the complainant had produced no evidence that the defendant ever accepted the right thumb as part of the claim. The complainant again filed for reconsideration.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

24. The complainant, a hearing representative, alleged that the judge was verbally abusive, sarcastic, and expressed bias and prejudice against medical providers and their representatives, while the judge "smile[d] at defendant." The complainant alleged that this has become such an issue that the complainant has had to bring a police officer to the WCAB for fear of appearing before the judge due to the judge's abusive behavior. The complainant complained that the judge refused to hear any arguments or

review any evidence offered by the complainant while allowing defendants to do as they please. The complainant claimed that when the complainant attempted to answer questions, the judge accused the complainant of talking back. The complainant alleged that when the judge was provided with a copy of the regulations that the complainant was relying upon, the judge stated it did not exist because the judge was looking at the wrong regulations. The complainant alleged that the defense had no evidence but was able to do as they pleased. The complainant did not know why the judge had a personal dislike.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

25. The complainant, an unrepresented applicant, alleged that the judge did not bifurcate the trial as agreed on by the defense attorney. The complainant alleged that the trial commenced with extreme prejudice. The complainant wrote, "The judge has not separated the prejudice and bias and proceedings are prejudiced. There is no separation. There is one trial." The complainant alleged that when the court verbalized that the trial would be bifurcated into two separate trials on or about April 2015, it was senseless. The complainant stated that after complainant's attorneys were dismissed at their request, the complainant found out that the records the court had were dated June 2012, and amended 2013, by complainant's prior attorney. As the complainant sees it, this case has no reason to be bifurcated; all issues transpired on the same date and subsequently amended in 2013. The complainant complained of now being prejudiced and that the entire year had nothing to do with the chief complaint in the trial.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

26. The complainant, an unrepresented applicant, alleged that after the trial hearing

with the judge, the complainant and the complainant's fiancé observed the defense attorney and the judge speaking. Upon that observation, the judge and the attorney made a quick and hasty exit. The complainant felt threatened; this appeared suspicious. The complainant would appreciate an investigation.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

27. The complainant, an attorney for a lien claimant, alleged that the judge violated the Code of Judicial Ethics by failing to respect and comply with the law and for demonstrating bias and prejudice. The complainant claimed defendant never paid the \$280.00 charge for Spanish-language interpreter services. The claimant alleged that the judge arbitrarily reduced the amount requested in the Petition for Costs to \$185.00. When the lien claimant filed a Petition for Reconsideration, the judge rescinded the Order and set the matter for a mandatory settlement conference. According to the complainant, a non-attorney member of the complainant's office appeared at the MSC (Mandatory Settlement Conference.) After the judge rescinded the Order, the defendant paid the \$185.00 and refused to pay any more because that defendant had complied with the Order. The parties conferred with the judge in chambers and when the staff member tried to explain that after the market rate is established, it is presumed reasonable, the judge immediately interrupted the staff member and asked, "what do you think I am going to do to you if you continue to talk?" Complainant complained that the staff member interpreted this as a threat to impose sanctions and said nothing further. After first confirming that the language involved was Spanish, the judge then commented to the representative as follows: "I don't think what you do is very special. Everybody in California speaks Spanish." The complainant felt that the judge's comment regarding the prevalence of Spanish speakers neither complies with the law nor promotes the integrity and impartiality to the judiciary. The complainant complained that this could be construed as demonstrating bias or prejudice based on national origin.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

28. The complainant, a lien representative, alleged that the judge incorrectly applied the law and requested that the complainant withdraw the lien because it was filed more than 18 months after the C&R was signed. The complainant complained that the judge took it upon the judge to request a withdrawal based on misrepresentation of the law and further did it on the judge's own volition without provocation. The case was not set for hearing. The letter from the judge also indicated that if the lien was not withdrawn, the complainant could face costs and sanctions for frivolous hearing and prosecution of the lien.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC identified a technical violation of the California Code of Judicial Ethics. The EAC determined this to be an anomaly and recommended further appropriate action.

29. The complainant, an unrepresented applicant, complained of being misinformed by an I&A officer to response to Defendant's Petition to Dismiss. The complainant complained that had the Petition for Change of Venue been processed appropriately, the complainant would have already filed a DOR. Instead, the complainant had to write a 13-page objection to the Petition to Dismiss. The complainant understands that judges enjoy judicial immunity; however, the complainant is concerned about continued problems at the Board. The complainant hopes that the judge will not be biased and that there will be no more ethical problems. The complainant received the Petition to Dismiss on March 21, 2016. The I&A officer called the complainant back to let the complainant know that the judge signed the Order granting change of venue. The complainant complained that this delay cost the complainant time and money.

Following its review of the complaint, the Committee did not identify any violations of

the California Code of Judicial Ethics or the Division's ethics regulations.

30. The complainant, an unrepresented applicant, alleged that the defendant arrived more than one hour late to the mandatory settlement conference, while the complainant waited over one hour as the judge made over four phone calls on behalf of the defendant in an attempt to (1) locate an attorney who would accept the defendant's case, since they failed to provide an attorney; and (2) make sure they could get to the courthouse within the next 45 minutes. The complainant complained that the 45-minute deadline imposed by the judge expired, but the judge refused to proceed and make a ruling due to the defendant's failure to arrive after over 1 hour and 45 minutes had passed. The complainant never received any notice of representation from any firm until after the first conference. The complainant alleged that the judge and the defense attorney communicated with each other within the confines of the judge's chambers several times, not allowing the complainant to enter or take part in the conversation. The complainant complained that the judge showed little interest in any of the requests made by the complainant and disregarded allegations regarding the allegations of workers' compensation fraud.

The complainant requested keeping the two WCAB cases separate due to a conflict of interest, and the judge quickly denied the request. However, an MSC for one of the cases was cancelled and combined with the other case. When the complainant appeared for the conference, the complainant asked the judge how this had happened, and the judge indicated that the judge did not know. The complainant alleged that the judge was being sarcastic and yelled at the complainant.

The Committee concluded that the complaint should be investigated. Following its review of the investigation, the EAC did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

31. The complainant, an unrepresented applicant, alleged that the judge violated Canon 1 by failing to be impartial and unbiased. The complainant claimed that the

judges turned a blind eye to the defense violations of the WCAB Rules and Procedures. The complainant complained that the defense attorney communicated with the panel QMEs on a number of occasions. The defense attorney made the appointments with the QMEs. The complainant filed a Petition for Reconsideration, which was denied, and claimed that this allowed the continuous violations and delay in resolution of the case, which is backed up by other judges and commissioners.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

32. The complainant, an unrepresented applicant, alleged that the judge went so far as to say, "I have worked with [defense attorney] over the years and found the attorney to communicate and work with the other side, so I will overrule your objection anyway." The complainant complained that the Commissioners did not allow removal of the judge despite the bias this judge had with respect to the complainant's case. The complainant alleged that the judge violated Canon 3B by stating that the judge did not have time to look through a 27-page physician report because the judge had "all these" attorneys to get to, making a hand gesture. The complainant complained of being denied the opportunity to explain the constant violations of Labor Code Section 35 by the defense. The complainant complained that ex parte communications took place, but the judge only noted in the Minutes of Hearing that it was "alleged." Regarding automatic reassignment, the complainant complains that the judge stated, "The WCAB denied your request, so you are forever barred." The complainant claimed that the PJ also violated Canon 2 by denying the complainant's petition for automatic reassignment on the grounds of being untimely. The complainant argued that it was timely and that the court is not giving the complainant an opportunity to exercise the complainant's rights.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

33. The complainant, an unrepresented applicant, alleged that the judge failed to be impartial and unbiased in the Minutes of Hearing and in the Summary of Evidence, in order to unfairly and illegally assist the employer and the defense attorney. The complainant claimed that the judge intentionally misrepresented certain information to cover up the fact that the employer was not properly credentialed. The complainant also claimed that the judge intentionally misrepresented the beginning date of the complainant's cumulative trauma injury. The complainant claimed that the applicant's and defense exhibits prove the illegal personnel action committed by the employer, which resulted in the applicant's wrongful termination and injuries. However, the judge instead wrote, "applicant considering it to be an unlawful termination."

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

34. The complainant, an anonymous complainant, alleged that the judge continues to abuse discretion, as in the attached case, by making findings that are not justified by the record and issuing improper sanctions that are overturned on reconsideration. The complainant alleged that judge failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, violating Canon 2 of the California Code of Judicial Ethics.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

35. The complainant, an unrepresented applicant, alleged that the PJ acted in a manner contrary to Canon 2A. The complainant wrote a letter regarding the non-response by the I&A officer regarding assistance with requesting multiple QMEs, and the letter was ignored. The complainant complained that I&A officers are meant to assist applicants, and if they do not reply, it delays resolution of the case, which is contrary to the guidelines in the Judicial Ethics Code.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

36. The complainant, a represented applicant, alleged that the judge was prejudiced and biased. The complainant claimed being a mental health outpatient and stated that the mental health treatment was not made a part of the award. The complainant asked the attorney to challenge the judge's decision but was told that there was nothing that could be done about the judge's decision. The complainant complained of feeling helpless before the judge, the attorney, and the defense attorney. The complainant felt that the judge was prejudiced and biased with regard to all complainant's medical evidence. The complainant complained that the judge, in the Findings and Order, stated that the complainant was not a credible witness and that there was a lack of credibility supporting the medical evidence.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

37. The complainant, a represented applicant, alleged that the judge signed and approved the C&R that states that it resolves complainant's Supplemental Job Displacement Benefit Voucher in violation of Labor Code section 4658.7(g).

Following its review of the complaint, the Committee, in light of the panel decision in *Beltrand*, did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

38. The complainant, a represented applicant, complained about the judge's Award and the denials of complainant's appeals. The complainant argued that the Social Security Disability judge found the complainant to be under "disability." Complainant claimed that everyone at the Workers' Compensation Appeals Board is involved in the conspiracy. Complainant has been denied medical treatment and wonders if it is because of complainant's race.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

39. The complainant, an unrepresented applicant, complained that the judge should have self-recused as the presiding judge on complainant's cases. Complainant pointed out that the judge, in the Report and Recommendation on Petition for Reconsideration, made reference to complainant's right shoulder strain and chest injury. Complainant complained that the injury is to the left shoulder and left upper chest. Therefore, it appeared to complainant that the judge diagnosed the complainant without a medical degree and got the injured body parts wrong. Complainant alleged that the judge is biased and prejudiced against complainant.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

40. The complainant, an unrepresented applicant, alleged that the judge denied complainant's request for a replacement QME. The panel QME acknowledged that the eye injury was industrially caused and assessed a 0% permanent disability with the need for future medical care. The panel QME claimed that age was also the reason. Complainant claims that the panel QME failed to follow the Labor Code on apportionment. The judge denied complainant's request for a replacement QME and also removed complainant's future medical care without any reason. On the day of the trial, the defense attorney provided a motion to exclude evidence and witnesses by stating that complainant had duplicate exhibits. Complainant was not given enough time to view the exhibits, although the judge considered the defendant's recommendations the day of trial. Complainant claims that the judge dismantled complainant's exhibits and threw out the majority of relevant evidence that supported the case by using the judge's excess powers. The complainant complains that there is no evidence to justify the sum of \$9,620.85 to defendant. Complainant claims to not have received a fair trial because the judge manipulated the judge's authority.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

41. The complainant, an unrepresented applicant, alleged that the judge violated Canon 3B because the judge did not have time to review the documents. According to the complainant, the judge stated, "I have forty-five people on my calendar that I have to get to." The complainant complained of being denied a fair and impartial hearing. Complainant complained of having to wait two months for each hearing and should be allowed sufficient time to discuss complainant's case in private. Complainant complained of being denied a stenographer in the hearings. Complainant was informed by the judge that that a stenographer is available only during certain types of hearings. Complainant previously filed a complaint in September 2016 against the same judge

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

42. The complainant, a represented applicant, alleged that the judge caused complainant to experience post-traumatic injury. According to complainant, the first bad experience took place on or about June 20, 2016. The complainant requested that the judge not send complainant to trial with complainant's former attorney because the attorney had received a warning letter from the State Bar for refusing to turn over complainant's files. In addition, the complainant told the judge that the panel QME report was based on lies and were not in complainant's best interest. Complainant complained of being forced to trial knowing there was disloyalty from the former attorney. The complainant and attorney were in agreement of separating from one another before proceeding to trial. The complainant was forced to proceed to trial knowing that the attorney was not going to have complainant's best interest.

Following its review of the complaint, the Committee did not identify any violations of the California Code of Judicial Ethics or the Division's ethics regulations.

B. New Complaints Pending Ongoing Investigation (9 total)

1. The complainant, an unrepresented applicant, alleged that on November 2, 2015, the complainant appeared in court before the judge, with the defense attorney, and an interpreter. On that day, the defense attorney pulled out a packet and an envelope and placed it on the judge's desk. This occurred before the judge arrived at his desk. As the judge arrived at his desk, the complainant tried to explain, through the interpreter, that the defense attorney had placed everything on the desk. The complainant asked the judge if the judge would tell the complainant what information was in the packet. The complainant complained that the judge then became upset and responded that the complainant had the right to know some of the information, but not all. The complainant alleged that the judge then got up from the desk and walked over to where the complainant was sitting, with only one packet in hand, not the envelope. The judge left the packet next to the interpreter. The complainant complained that the only thing the complainant is looking for was transparency of all information. The complainant also alleged that the information that was supposed to be provided to the court did not appear. The complainant believes that someone removed them intentionally. In addition, the complainant alleged that the judge admonished the complainant for filing the documents in Spanish.

The Committee concluded that this matter should be investigated.

2. The complainant, an unrepresented applicant, alleged that the defense attorney told the judge that the complainant was an "adjuster abusing the system." The complainant claimed that the judge was biased by this statement made by the defense attorney in the complainant's absence. The complainant alleged that the judge accused the complainant of making false claims of injury and yelled at the complainant. The complainant complained that the judge denied the complainant's rights to benefits and to the case file.

The Committee concluded that this matter should be investigated.

3. The complainant, a represented employer, alleged that the judge was biased in favor of the applicant by not allowing the employer in the hearing room and by changing the facts to fit the judge's ruling. The complainant complained that the judge made comments to discredit the video evidence that was presented in the case. Specifically, the judge said that the clock on the judge's home VCR is never right, so the judge is not going to believe the time stamp on the security videos. The judge made no effort to ask how the time stamp is put on the video system; the judge was only concerned with how the judge could discredit the evidence proving that the accident did not happen.

The Committee concluded that this matter should be investigated.

4. The complainant, an unrepresented applicant, alleged the following:

1. The judge lost evidence of proof of timeliness of the appeal. This was verified by opposing counsel, and the judge angrily acknowledged it was lost.
2. The judge questioned the authenticity of the complainant's primary treating physician's signature after 22 years with the same signature on the prescriptions every six weeks. The judge asked, "Why isn't he here?" The complainant complained that the doctor and the complainant both live in Oregon, and the doctor was not summoned to be present.
3. After four long trial appearances, the judge and opposing counsel had not been given an opportunity to completely present the case. The judge constantly interrupted complainant, usually in an "attacking, abusive" manner so that little ever got accomplished.
4. The judge verbally criticized the complainant's lack of legal and procedural knowledge. The complainant received a JD (Juris Doctor) but never actually practiced law and was on "inactive status" with the California State Bar since 1982.
5. The judge knew the parties were discussing settlement, but failed to facilitate the discussion.
6. The judge entered the court on one of the appearance days and said, "I looked you up." The complainant felt that statement was purposefully intimidating and

unethical.

7. On another occasion at the start of trial, the judge entered the room again looking at the complainant and said a new case came down that morning that did not look good for the complainant. The complainant asked what the name of that case was, and the judge refused to tell them. The complainant claims this shows bias, prejudice, and a miscarriage of justice.
8. When the judge criticized the complainant's evidence for not being "clean," the judge told the complainant to come back after lunch with a clean copy; no whiteout allowed.
9. On another trial date, the complainant pointed out a mistake in the Minutes of Trial; the judge angrily said that the stenographer never makes mistakes. When the complainant pointed to the transcript, the judge then agreed that it would be allowed to be corrected in the minutes. The complainant claims it was visually obvious that the judge was not pleased about being corrected.
10. The complainant claimed that a Minutes of Hearing dated April 26, 2016, showed that opposing counsel was allowed to interact with the judge regarding the case without the complainant's presence.
11. The complainant complained that when the stenographer was present, it always at the end of the day, the judge would constantly go on and off the record, to the point that it was hard to keep track of anything. The complainant complained that the stenographer was there for such a minimal amount of time that the majority of the trial was never recorded, including constant verbal attacks on the complainant.
12. The complainant claimed that the judge lost very important evidence that proved that the complainant's treatments had been approved to dates beyond the denial date.
13. The complainant claimed the judge needed a sixth day of trial. The judge never let the complainant complete the case and could not make any comments in full without an abusive remark from the judge.
14. The complainant noted that the judge was previously a private defense attorney, which brings into question the judge's ability to be impartial evidenced by the

judge's repeated conversations with opposing counsel without the complainant's presence.

The Committee concluded that this matter should be investigated.

5. The complainant, an unrepresented applicant, alleged that the judge proceeded with trial despite objections by the complainant. The complainant recently underwent surgery and requested a postponement due to the pain and was denied. The complainant appeared at trial and explained that the complainant objected to the forced trial. The complainant also told the judge that the court had removed papers from the complainant's file and then lost the files for years, and the complainant was not allowed access to them. The judge told the complainant, "I don't care, and we are here to have a trial, and we are having a trial." The complainant asked the judge if the judge had the lost files. The judge then looked at the complainant angrily, got up, walked to the door, grabbed a small box, and slammed it down on the desk in front of the complainant, then, without saying a word, went back and grabbed a second box and slammed it down on the desk in front of the complainant. The complainant told the judge that the complainant was in so much pain that the complainant could not talk and that the judge would have to call an ambulance if the judge wanted the complainant to stay. The judge stated that they were having a trial. The complainant said the complainant had to go and left. The complainant submitted an objection to the trial based on no documents of fact from the complainant's side, which the judge rejected and sent the report to be rated. The complainant then received a new trial date, which the complainant understood meant a new trial to submit documents. The complainant arrived at the room and saw two other attorneys. The complainant had all the documents ready to submit to court, the judge said the court would not be accepting any documents. The complainant objected; the judge asked the rater to come into the room, and the judge swore in the rater. The complainant requested the swearing in on a Bible, and the judge refused. The complainant complains that the rater did not have an ID, so how could the complainant know whether this was the right person? The complainant rater a question, however, the judge answered the question instead. The complainant then asked about

the judge's papers and what qualifies the judge and the judge got upset and started "going off" on the complainant.

The Committee concluded that this matter should be investigated.

6. The complainant, an unrepresented applicant, alleged that the judge, the insurance company, and three attorneys took advantage of complainant's mental health and disability. Complainant claimed that "they" made the complainant sign papers that the complainant did not know much about. The complainant thought signing the papers was the procedure necessary for receiving settlement money.

The Committee requested additional information on the case before making a recommendation.

7. The complainant, an unrepresented applicant, alleged that the judge was biased and prejudiced against the defendant during trial. The complainant complained that as soon as the judge saw the complainant's spouse, the judge (before asking any questions) asked, "Do we need an interpreter?" The complainant's spouse felt insulted for being regarded as a non-English-speaking person based solely upon the spouse's appearance and perceived race. The complainant also complained that, during trial, the complainant suffered a cramp just below the right knee. The complainant did not bend fully over to rub the leg. However, the judge noted in the minutes that the complainant had a cramp in the leg and was able to bend fully over while sitting in the chair to rub the ankle and leg. The complainant claimed that this was a false statement made by the judge. The complainant complained that during the complainant's testimony, the judge constantly objected to the complainant's attorney. The complainant complained that the judge was acting as the defense attorney and therefore biased and prejudiced against the complainant in favor of the insurance company. During the hearing, the complainant asked the judge's permission to stand up, and the judge responded in a very sarcastic manner, "You are not chained to the chair." The complainant asked again out of respect, and the judge responded, "I said you are not chained to the chair." The

complainant felt intimidated and reluctant to ask again. At several points during the trial, the judge stopped the proceedings and requested to go off the record. The complainant complained that, with arms flailing, the judge used a loud voice directed at the complainant and the complainant's attorney. After the complainant finished testifying, the complainant's spouse was called to testify. The judge encouraged the defense attorney to object. On at least three occasions, the judge reminded the defense attorney of the right to object to the spouse's testimony. The complainant further complained that the judge vacated submission of the case for decision and instead ordered further development of the record.

The Committee concluded that this matter should be investigated.

8. The complainant, an applicant's attorney, complained that the judge was biased against the applicant's firm. During direct examination of the applicant by the applicant's attorney, the judge stopped the attorney and demanded to know whether the attorney was following a script, namely, whether the attorney was asking questions that had been written down earlier. The attorney answered in the affirmative, and the judge became angry. The judge then stopped the direct examination to ask how much longer it was going to take, and at one point the judge commented on when the testimony would be able to continue, saying, "well, when the associate is done with the script." The judge made this statement to indicate the judge's continued displeasure with the fact that the attorney had written down the direct examination questions.

During the trial, the judge often instructed the court reporter to go off record to stop recording the proceedings, at which time the judge scolded the applicant's attorney in front of the applicant and the defense. The judge's diatribe related to with what the judge thought the applicant's firm had done incorrectly in the past. The attorney continually reminded the judge that the attorney could not answer for any actions by the firm because the attorney had no firsthand knowledge. This led the defense attorney to begin making arguments regarding alleged improper notice in other cases the defense attorney had with the applicant's firm, that the defense attorney felt showed a pattern of

improper notice in the case at bar.

The judge's disrespect for the applicant's counsel was so overt that it carried over to the court reporter, who stopped the direct examination of the applicant to tell the judge, "I can't do this because the applicant's attorney is not even asking a question." Apparently, the court reporter thought the attorney's line of questioning was objectionable and, rather than allow the defense attorney to object, took it upon herself to do so. The judge failed to admonish the court reporter and, instead, demanded that the applicant's attorney get to the point. The attorney states that the judge's conduct shows bias toward this law firm and all the applicants represented by this law firm. The judge failed to be dignified and courteous and to uphold the integrity of the judiciary.

The complainant also complained of impropriety by the judge in the following cases:

1. In the matter of E.H.

The case was set for an expedited hearing. The parties were able to resolve the matter after they appeared at 8:30 a.m. The attorneys waited for the judge until 9:30 a.m., but because the judge was not there, the attorneys went to the PJ, who inquired as to the reason for coming to the PJ and therefore learned that the judge had not arrived until sometime after 9:30 a.m.

2. In the matter of P.K.

On the third day of trial in this case, the applicant's arrived late to the courtroom because the attorney dropped his case file, and the papers scattered all over the parking lot. Without first determining that the applicant was in the waiting room, the judge went on the record at 8:40 a.m. and issued a Notice of Intent to Dismiss the Case on the third day of trial and invited the defense attorney to file a Motion for Sanctions. The attorney immediately filed an opposition to the Petition and the judge put it back on calendar for additional trial dates. All this did was to delay the applicant's right to a speedy trial. This appeared to be the judge retaliating for information the PJ for the judge having been one hour late in the matter of E.H.

During the first couple of days of this trial, the judge was critical of the applicant's attorney and went out of the judge's way to act unprofessionally. The applicant's attorney was having trouble asking questions in a way that the judge approved. The defense attorney kept objecting, and the judge also objected. Finally, the judge slammed both hands down on the bench, which the judge did often, and said, "that's it, in my chambers now!" When they

went into chambers, the judge started yelling at the applicant's attorney about leading the witness. Sometime during the tirade, the judge realized that the judge left the defense attorney in the courtroom and went out to get the defense attorney.

The applicant's attorney brought two witnesses to testify before the applicant, the judge then began belittling the attorney for doing this and lectured the attorney about the order of witnesses.

During the trial, the defense attorney advised that they were going to change the employer representative in the trial to the person whose discriminatory activities had caused the trial under the 132(a) claim. This was an attempt to intimidate the applicant. When the applicant's attorney attempted to object, the judge said that the defense was entitled to an employee representative, and when the attorney tried to explain the situation, the judge jumped up, spun around, flew into the judge's office, slammed the door, and did not come back for at least five minutes.

3. In the matter of D.L.

The applicant's attorney filed a Petition to Vacate the trial date and develop the record. While arguing over this petition, the applicant's attorney was interrupted by the defense attorney, and the applicant's attorney said, "Excuse me, can I speak?" The judge then screamed "That's it!" and slammed the judge's hands on the desk, slammed the evidence packet shut and shoved it across to the applicant's attorney, and yelled, "Get out." The judge ushered the attorney out the courtroom and slammed it behind the attorney. The applicant's attorney left to use the restroom, and when the attorney came back, the attorney's briefcase was gone. The attorney later learned that the judge took it to the back the judge's office and gave it to the judge's secretary. The judge spent 45 minutes working on other cases and then came back and took the matter off calendar and ordered the parties to further develop the record.

4. In the matter of G.O.

In this matter, the applicant's attorney argued that the panel QME's report did not constitute substantial medical evidence. The defense argued that the PTP's (Primary Treating Physician) report did not constitute substantial medical evidence. The judge stated that the entire case might be dismissed if the applicant's attorney set this matter for trial. Rather than developing the record, the judge basically forced the parties to settle based on the medical reports in the case.

When the parties failed to reach an agreement, the parties went to the judge's office and told the judge they were ready to set the matter for trial. The judge yelled, "You don't say when you're ready; I decide if the case is ready for trial."

5. In the matter of L.I.

The parties appeared for trial, but the judge kept talking about other cases in which the applicant's attorney's firm filed certain petitions and the judge did not like the way in which the firm drafted its pleadings.

6. In the matter of P.S.

The applicant's attorney planned to use a videotaped deposition in lieu of live testimony. The defendant claimed not to have received notice of the deposition. The judge indicated that live court testimony is not done by deposition. When the applicant's attorney explained that it is done routinely for out-of-state applicants, the judge threatened to impose sanctions on applicant's attorney for violating the obligation not to mislead the court.

In another instance during the judge's diatribe, the judge pointed at the judge's chest and said, "I have a lot of power."

The Committee concluded that this matter should be investigated.

9. The complainant, a hearing representative, alleged that the judge was practicing law. The complainant alleged that the judge shares a law firm with someone who is an active member of the bar and does business with a firm whose name includes the judge's last name. The law office has taken the role as representatives for workers' compensation matters utilizing the DIR UAN (Uniform Assigned Name) has the judge's last name. The complainant states that the unusual behavior of the judge "felt like a competitive behavior," which led the complainant to investigate whether the judge is actually practicing law in the same field of practice. The complainant is requesting an investigation into the matter.

The Committee concluded that this matter should be investigated.

C. Pending Complaints Filed after the Final EAC Meeting of 2016 (5 total)

1. The complainant, an unrepresented applicant, alleged that the judge allowed the defense attorney to change the complainant's evidence in the judge's hands. The complainant complained that, on the day of trial, the insurance lawyer changed the deposition transcript. The defense attorney said that he had the original transcript and therefore exchanged the transcript despite the fact that the transcript belonged to the complainant.

2. The complainant, the spouse of an unrepresented applicant, alleged that the judge committed fraud in the proceeding and then documented the fraud. The complainant alleged that the court documents demonstrate the judge's prejudice and abuse of discretion, and/or willful ignorance of the law in order to facilitate the "nut and slut" game against the injured worker. The documents indicate that the defendant filed an Application for Adjudication of Claim on behalf of the injured worker. The complainant sought to have the application dismissed. The complainant complained that the judge usurped the injured workers' civil rights to dismiss one's own case. The complainant objected to the defendant's Petition seeking to have the injured worker reopen the case.

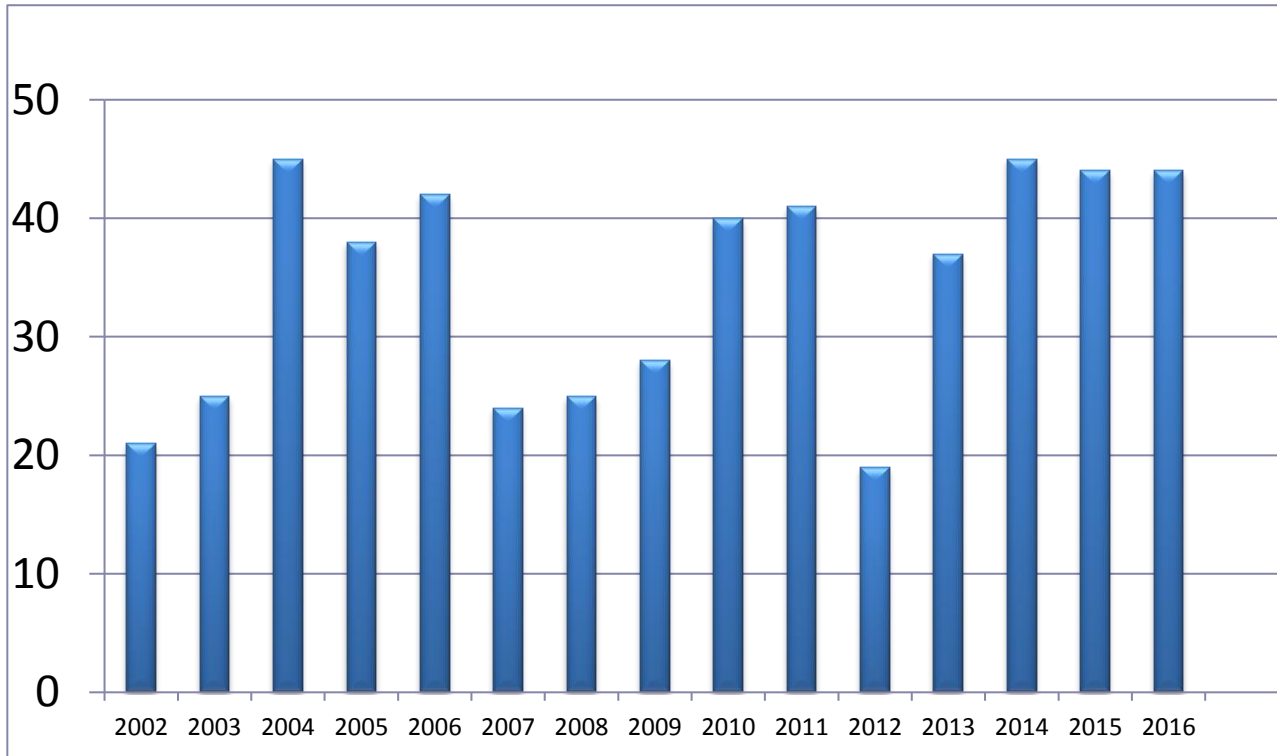
3. The complainant, an unrepresented applicant, alleged that medical reimbursement money was paid to the judge. The complainant claims that liens for self-procured medical bills were filed by the complainant's former attorney in 1988; it has been 29 years, and the complainant has not yet been reimbursed by the defendant. The complainant believes that several judges "stole" the complainant's money and that the complainant's attorney signed a secret agreement with the defense attorney that an AME will make the decision on the disputed medical issues. The complainant complained that the judge ordered the complainant to undergo a medical examination by a doctor chosen by the defense. The judge suspended all medical treatment and benefits for two years, and the complainant could not obtain psychiatric treatment and became "psychotic." The complainant claimed that the attorney did not file an appeal because "it was planned carefully."

4. The complainant, an unrepresented applicant, alleged that the judge took over three weeks to authorize the rating of the most recent QME report. The complainant claimed of having had over 25 hearings before the judge. The complainant complained that the judge is biased and does not have the injured worker's interests in mind. The judge only worries about what can be done to prolong the complainant's cases. The complainant complained of becoming homeless again, waiting for a rating for over two years. The complainant would like a new trial because the complainant was intoxicated at the trial,

and the judge knew and yet decided in favor the attorneys and insurance carriers. The complainant has been in front of the judge for 18 years, and the judge has stated the judge's dislike for the complainant and the complainant's continued presence.

5. The complainant, an unrepresented applicant, alleged that the defense attorney's wife, who is a judge on the WCAB, encouraged the CHP officer to harass the complainant as the complainant engaged in lawful business. A CHP lieutenant advised the complainant that this officer would not have approached the complainant unless told by a judge to do so. The complainant asked for the judge's name, but the officer declined to provide it. The defense attorney was the attorney for the employer in the civil matter, not the complainant's workers' compensation claim. The complainant does not know this judge.

Chart 1: Complaints of Misconduct Filed with the Ethics Advisory Committee, 2002-2016 (number of complaints)



**2016
COMMITTEE MEMBERSHIP**

**Chair
vacant**

HON. TIMOTHY HAXTON

Workers' Compensation Judge
Workers' Compensation Appeals Board
Salinas

HON. JAMIE SPITZER

Presiding Workers' Compensation Judge
Workers' Compensation Appeals Board
Anaheim

HON. JOYCE CRAM

Judge (Ret.), Alameda County Superior
Court, Member of the Public from Outside
the Workers' Compensation Community

JIM LIBIEN, ESQ.

Former Defense Attorney
Workers' Compensation Law

ELLEN SIMS LANGILLE, ESQ.

California Workers' Compensation Institute
Representing Insurers

JIM ZELKO

Kaiser Foundation Health Plan
Representing Self-Insurers

STEVEN SIEMERS, ESQ.

Member Representing
Organized Labor

KENNETH PETERSON, ESQ.

Former Applicants' Attorney
Workers' Compensation Law

HON. NEIL ROBINSON

Presiding Administrative Law Judge
Occupational Health and Safety Appeals
Board, Member of the Public from Outside
the Workers' Compensation Community

DWC STAFF

Paige Levy

Chief Judge

Karen Pak

DWC Attorney

Ursula Jones

Adm. Assistant

Acronyms

| | |
|-------|---|
| AME | Agreed Medical Evaluator |
| CCR | California Code of Regulations |
| CHP | California Highway Patrol |
| CJ | Chief Judge |
| C&R | Compromise and Release |
| DOR | Declaration of Readiness |
| DWC | Division of Workers' Compensation |
| EAC | Ethics Advisory Committee |
| I&A | Information and Assistance |
| MSC | Mandatory Settlement Conference |
| PJ | Presiding Judge |
| QME | Qualified Medical Evaluator |
| WCAB | Workers' Compensation Appeals Board |
| WCALJ | Workers' Compensation Administrative Law Judges |