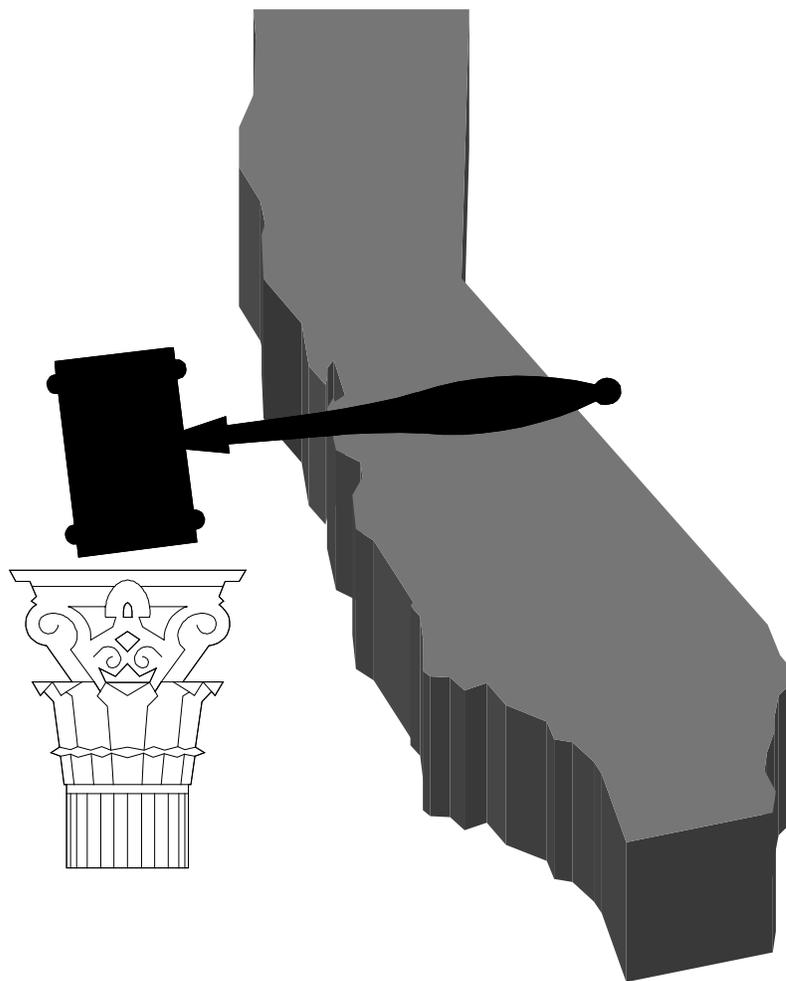


**State of California  
Department of Industrial Relations**

**WORKERS' COMPENSATION ETHICS  
ADVISORY COMMITTEE**



**2014  
ANNUAL REPORT**

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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, the WCALJs are not subject to review by the California Commission on Judicial Performance, the agency which is 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, title 8, sections 9722 through 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 California Code of Regulations, 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 EAC's composition reflects the constituencies within the California workers' compensation community, and is composed of the following members:

**Table 1. Members of the Ethics Advisory Committee**

- (1) A member of the public representing organized labor;
- (2) A member of the public representing insurers;
- (3) A member of the public representing self-insured employers;
- (4) An attorney who formerly practiced before the Workers' Compensation Appeals Board (WCAB) and who usually represented insurers or employers;
- (5) An attorney who formerly practiced before the WCAB and who usually represented applicants (injured workers);
- (6) A presiding judge;
- (7) A judge or retired judge, and;
- (8) Two members of the public outside the workers' compensation community.

The EAC meets four times each 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**

Any person may file a complaint with the EAC. Complaints must be presented in writing and the EAC will accept anonymous complaints.

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 workers' compensation administrative law judge employed by the DWC and the complaint alleges ethical misconduct by the WCALJ. 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 from the reviewing members on the EAC, the committee adopted a policy requiring that the names of the complainant, WCALJ, or 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 has considered the complaint and, inasmuch as no misconduct was either alleged or established, the EAC decided no further action is appropriate and the matter has been closed.

## **B. Investigation by the Chief Judge or Administrative Director**

When a complaint makes allegations which if true would constitute misconduct by a workers' compensation administrative law judge, the EAC will recommend that the Chief Judge conduct an investigation. When the Chief Judge's staff has completed 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 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 California Code of Regulations, 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 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 2014

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

The DWC has 24 district office locations, each with a Presiding Judge (PJ). In 2014, the DWC had authority over 169 active judges.

**Table 2. WCALJ Positions (as of December 31, 2014)**

Number of presiding judges.....	24
Number of judges serving.....	145
Total number of judges serving.....	169

## 2. New Complaints

The EAC considered a total of 39 of the 45 new complaints it received in the calendar year of 2014, in addition to 3 complaints pending from 2013. There are 11 complaints filed in 2014 that are pending ongoing investigation and 6 pending complaints filed after the EAC final calendar meeting for 2014. The EAC also resolved 4 complaints pending ongoing investigations in 2013. The complaints set forth a wide variety of grievances. A substantial portion of the complaints alleged legal error not involving judicial misconduct or expressed dissatisfaction with a judge's decision.

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 2014 that were received by the EAC after its final meeting for calendar year 2014 are classified as "pending" or "pending consideration."

**Table 3. 2014 Complaint Caseload**

New complaints filed in 2014.....	45
Complaints from 2013 pending ongoing investigation .....	4
Complaints from 2013 pending consideration (filed after last meeting in 2013) .....	3
New complaints considered in 2014.....	39
Total complaints resolved in 2014.....	35
New complaints pending ongoing investigation.....	11
New complaints pending consideration (filed after the last meeting in 2014) .....	6

### 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 2014, but unrepresented employees make up by far the largest group of complainants.

**Table 4. Groups within the Workers' Compensation Community That Filed Complaints in 2014**

Employees represented by attorneys .....	3 complaints
Employees not represented .....	26 complaints
Anonymous .....	1 complaint
Applicant attorneys.....	2 complaints
Defense attorneys .....	1 complaint
Claims administrators.....	0 complaints
Hearing representatives .....	4 complaints
Lien claimants (medical providers) .....	2 complaints
Attorneys representing a lien claimant .....	0 complaints

#### 4. Digest of Actions Taken on Complaints

In 2014, 45 new complaints were filed by the workers' compensation community, of which the Committee considered 39; the 6 complaints not yet considered were filed after the last EAC meeting. Of the 45 new complaints considered, the Committee resolved 28, and 11 complaints remain under investigation. The 3 complaints filed at the end of 2013 were considered and resolved this year, as well as 4 complaints with pending ongoing investigations in 2013, for a total of 35 complaints resolved in 2014. (For summaries of these complaints, see Section IV, A, Complaints Resolved in 2014). Of the 35 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, 14 resulted in investigations, of which 3 were concluded. The 3 complaints filed at the end of 2013 led to one investigation conducted this year, making a total of 15 complaints that the Committee investigated in 2014.

**Table 5. Digest of Actions Taken on Complaints in 2014**

<b>New complaints filed.....</b>	<b>45</b>
New complaints considered .....	39
New complaints resolved.....	28
New complaints pending ongoing investigation.....	11
New complaints pending consideration (filed after last meeting).....	6
<b>Total complaints resolved (filed in 2013 and 2014).....</b>	<b>35</b>
Complaints resulting in finding of no misconduct .....	29
Complaints resulting in finding of misconduct .....	5
<b>Total complaints investigated in 2014.....</b>	<b>15</b>
Complaint investigations filed in 2014 .....	11
Complaint investigations filed in 2013 .....	4

## **IV. Description of Complaints and Actions Taken**

### **A. Complaints Resolved in 2014 (35 total)**

1. Complainant, an attorney for the applicant, alleged that the judge attempted to strong-arm complainant into compromising the applicant's rights. This matter came before the judge based upon defendant's Declaration of Readiness to Proceed (DOR) on the sole issue of the need for further treatment as the panel Qualified Medical Evaluator (QME) did not find the need for further treatment necessary. Complainant alleged that the judge inquired as to why the case could not be settled. Complainant alleged that the judge became frustrated and chastised the complainant for using delay tactics, and for failing to diligently work up the file. Complainant alleged that the judge threatened to cut off discovery, even though it could not be legally cut off. Complainant reminded the judge that complainant undertook representation of the applicant only six weeks prior to the mandatory settlement conference (MSC).

The complainant stated, that after some discussion, the judge continued the matter for a further MSC, to which complainant objected, because the matter would not be ripe for settlement in the near future. The complainant alleged that the judge responded by stating, "we've got nothing better to do here than to set hearings."

Complainant alleged that the judge was retaliating against complainant for disagreeing as to how the matter should proceed. Complainant alleged that the judge went on to comment that complainant had been practicing for more than 20 years, began scolding complainant for impertinence, and said that everything the judge had heard about complainant from the other judges was clearly true.

Following its review of the investigation, the committee recommended further action and referred this matter to personnel.

2. Complainant, an unrepresented injured worker, complained of having a conflict with a scheduled hearing due to a medical appointment. Complainant stated that complainant went to the Information and Assistance (I&A) Officer, who helped prepare a letter. In the letter, the complainant requested that the hearing be postponed due to the medical appointment and expressed the desire for more time to hire an attorney. The letter was left for the judge's secretary and copies were sent to all parties listed on the address record. The complainant also called the Division's call center on Monday morning at 7:40 a.m., and was assured that someone would email the judge and the secretary directly. The complainant stated that complainant also called the number on the Notice of Hearing which was the direct line to the judge, left a detailed message, and informed the judge that defense counsel did not have any objections to the continuance.

Complainant alleged that on the day of the hearing, the judge telephoned the complainant, and in a very stern voice the judge said, "you do not ever miss one of my hearings." The judge stated that both lawyers were present and it was inappropriate for the complainant to not be there. When complainant explained that there was a medical appointment, the judge replied that "unless you are hospitalized or dead or close to that, you don't make the decision as to whether you should attend or not." Complainant also claimed that the judge threatened to have a California Highway Patrol (CHP) officer go pick up and arrest complainant. The complainant explained to the judge that the complainant did not know the procedures, and explained that complainant spoke with the I&A officer and wrote a letter. The complainant alleged that the judge stated the judge sometimes doesn't have time to read things and nobody cancels hearings except the judge. The judge also concluded by stating that the judge did not ever want to see or hear this again. Complainant asserted that nothing happened, but the judge stated that the judge could have the complainant arrested or cited in the future.

Following its review of the investigation, the committee recommended further action and referred this matter to personnel.

3. Complainant, a represented applicant, complained that the judge was unethical because the judge was unfair to the complainant's side at trial. The complainant complained that the judge rushed the complainant's attorney many times and did not seem to respect the complainant's lawyer. The complainant alleged that the judge relied upon a disputed report from a QME, and believed obvious lies from the defendants. The complainant stated that the judge also joked with the other lawyer about complainant's lawyer and joked that if the complainant only got \$25,000 for rape, then what did the complainant expect to get from this case.

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

4. Complainant, an attorney for the lien claimant, alleged that the judge violated the Canons of Judicial Ethics by failing to uphold the integrity and independence of the judiciary, failing to avoid impropriety and the appearance of impropriety, and failing to perform the judge's duties impartially and diligently. Complainant alleged that the judge denied complainant's client's due process rights because the judge would not proceed without complainant paying the lien activation fee. A DOR was filed on behalf of the lien claimant and a hearing scheduled, but the judge would not proceed with the calendared trial without complainant paying the lien activation fee. Complainant paid the activation fee, however, the judge would still not proceed forward with trial and ordered lien claimant to personally appear the next day or face the possibility of being sanctioned. The lien trial proceeded the following day, and lien claimant appeared and provided testimony.

Following its review of the investigation, the Committee identified an ethical violation of the California Code of Judicial Ethics. Based upon that conclusion, the Committee recommended further action.

**5.** Complainant, an unrepresented applicant, complained that the judge violated the Code of Judicial Ethics by demonstrating bias through the judge's conduct, in disrespectful language, statements, and gestures. Complainant also complained that the judge committed to a specific ruling based on information not presented at trial, further demonstrating impropriety and bias.

Complainant claimed that an attorney fraudulently filed a lien in the complainant's underlying workers' compensation case for legal services. The complainant claimed that the judge ignored complainant's verbal and written disputes to have the attorney provide a substitution of attorney, or a contract signed by complainant for representation, and has been denied the right to a fair and impartial trial. Complainant claimed that the judge demonstrated impropriety by continuing to allow the attorney to repeatedly ignore requests for documentation and inexcusably extending or postponing trial dates only for the attorney. The judge allegedly showed extreme patience, courtesy, and kindness to the attorney. Complainant further alleged that the judge repeatedly stated the judge's decision on the final determination of the lien trial without examining the entire scope of the lien. At a settlement conference, the judge allegedly told complainant that it was not a question of whether complainant would pay the attorney, but rather how much.

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.** Complainant, an unrepresented applicant, complained that the Presiding Judge (PJ) retaliated against complainant because of the prior complaints the complainant had made to the EAC. The PJ allegedly became more harassing and abusive, and

complainant asked the judge to stop calling and criticizing the merits of the complainant's claim. Complainant complained that the judge showed extreme prejudice and discrimination and extorted \$2,500 by sanctioning the 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.

7. An anonymous complainant complained that the judge acted unprofessionally during hearings in the courtroom. The complainant alleged that at a hearing, a brand new attorney, accompanied by a senior member of the firm, was making a first appearance before the judge. When the young attorney was introduced, the judge loudly questioned the young attorney in front of all parties present as to whether the attorney had been informed by other members of the bar that the judge is a "real bitch." Complainant complained that parties in the courtroom were shocked and dismayed by the judge's unprofessional behavior. The complainant stated that this complaint was made anonymously because of the fear of retaliation by the judge.

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

8. Complainant, a represented applicant, complained that the judge threatened the parties to make sure they got their "shit or stuff" out of the judge's courtroom or something bad would happen. After the case was disposed of, the complainant stated that the judge told the parties to get a trial date from a secretary. According to the complainant, at or about 5:00 pm., the judge barged out of the office with another judge and stated "I told you to get out of here by 5 p.m.," while the parties were speaking to the secretary per the Court's order. Complainant alleged that he judge, in a demeaning voice, told the secretary "just give them a date" to which the other judge stated "you are on notice." Complainant stated complainant was calling

the office to check on the calendar when the judge shoved complainant with two hands from the back propelling complainant forward with so much force that complainant was thrown into the secretary, lost balance, and fell forward. In shock and disbelief, complainant turned around and advised the judge that the judge had no right to touch complainant. Instead of apologizing, the complainant stated, the judge went into a rage and stated repeatedly “call the cops.” Meanwhile, the other judge was supporting the judge by stating “you are on notice.” According to the complainant, the parties were then escorted out into the elevator.

Following its review of the complaint, the Committee identified an ethical violation of the California Code of Judicial Ethics. Based upon that conclusion, the Committee recommended further action.

**9.** Complainant, an unrepresented applicant, alleged that the judge suppressed evidence and made a deal with the employers, to prevent complainant from getting workers’ compensation benefits. According to the complainant, the judge refused to allow documentation or proof showing that defendants lied under oath. Complainant also alleged that the settlement documents were forged as complainant did not attend the settlement hearings nor sign any settlement 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.

**10.** Complainant, an unrepresented applicant, complained of ongoing sanctioned workers’ compensation fraud. The complainant filed a complaint regarding fraud at the local district office. Complainant stated that in response to this complaint, the judge ordered a hearing. At the hearing, the complainant was frisk searched for weapons by a CHP officer. This was done in plain view of other applicants while defense counsel was not searched. The complainant alleges that this was an intimidation tactic on the part of the judge.

The complainant asked why the judge ordered the officer to search the complainant to which the judge replied that it was because of complainant's background in law enforcement and complainant's familiarity with firearms. Complainant claimed that this conversation was made on the record and that a transcript should be available.

Complainant further alleged that the judge may have had a personal relationship with defense counsel (now deceased) including going hunting together. Complainant believed this relationship explained the judge's repeated protection of the defense attorney and the judge ignoring complainant's allegations of fraud, including allegations of ex parte communications.

Complainant claimed to have maintained a webpage regarding issues and problems with the workers' compensation system and the problems with third party administrator fraud. Complainant never discussed the webpage in court, however, at this particular hearing, the judge ordered complainant to remove defense attorney's name from the webpage and further ordered complainant to write the judge a letter stating that complainant had complied.

Based upon this, complainant alleged that there must have been ex parte communications between the judge and the attorney. Further, the judge went beyond judicial authority by making complainant remove information from the webpage.

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

**11.** Complainant, a defense attorney, alleged that the judge harassed the parties and exceeded the scope of the judge's authority. Complainant complained that the parties appeared for a conference in July of 2013, and the judge refused to approve

a Compromise and Release with the represented applicant. Complainant alleged that the judge took the matter off calendar for further discovery. Complainant stated the judge wrote to the parties a total of five letters regarding the status of the case. The parties were not on calendar, however, the judge continued to write. Complainant complained that on the judge's own motion, the judge set a status conference for March of 2014 as parties did not respond to the judge's letters.

The Committee concluded the complaint should be investigated. Following its review of the investigation, the Committee recommended further action.

**12.** Complainant, an unrepresented applicant, complained that the judge had denied all of the complainant's major injuries, without any reason, other than relying on the QME. The complainant complained that the QME found the injury non-industrial without taking any tests. The complainant complained of increased pain in the left shoulder from overcompensating with the right shoulder. Complainant complained that the judge used discriminating expressions regarding complainant and that complainant's post-traumatic stress disorder (PTSD) had gotten worse because of the judge and the defense attorney. Complainant provided a copy of the judge's Opinion and Decision with the ethics complaint. In the Opinion and Decision, the judge wrote that the complainant was overly dramatic and did not make a credible witness. Complainant wrote that complainant was not dramatic, was in pain emotionally and physically, and was not a liar. Complainant believed that the judge was critical of complainant because complainant cried, was 60-years old, and had been abused by the workers' compensation staff.

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.** Complainant, an unrepresented applicant, alleged that the judge discriminated against complainant and that the judge was corrupt. Complainant alleged that the

judge abused the judge's power by hiding the fraud on the part of the doctors. Complainant alleged that the judge broke the law, lied, and hid complainant's medical records. Complainant asserted that complainant's case is worth a lot of money, and that the WCAB committed a big crime against complainant.

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

**14.** Complainant, a representative for a lien claimant, complained that the judge was unethical in issuing the following order at a lien conference:

The parties having waived the requirements of Labor Code section 5313 and having waived testimony and having submitted the issue of the lien on the present record, consisting of Stipulations and Issues and exhibits filed in the record, and after review of the record and oral argument of the parties, and good cause appearing: It is ordered that defendant pay lien claimant the sum of \$400.00 as full and final satisfaction of any and all billings and liens and penalty and interest applicable to this case.

Complainant claimed never to have agreed to waive any rights but rather to have requested that the matter be set for trial, a request denied by the judge.

A review of the record showed that complainant had filed a Petition for Reconsideration of the Order and the judge had rescinded the Order to Pay Lien. The judge then set the matter for trial on the issue of the lien and on the issue of imposition of sanctions and costs pursuant to a notice of intention to do so by the judge. Complainant sought a Petition for Removal based upon the Notice of Intention to order sanctions. In the Report and Recommendation on the Petition for Reconsideration and Removal, the judge wrote that a notice of intention to impose

sanctions and costs was issued based on frivolous and inaccurate representations in the reconsideration process. To that end, the judge wrote, the individual who signed the petition for reconsideration, declaring under penalty of perjury that the facts of the petition were “true and correct,” was ordered to appear at the lien trial with the defense attorney. The WCAB denied the Petition for Removal and dismissed the Petition 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.

**15.** Complainant, an unrepresented applicant, complained that the judge was biased because the judge approved defendant’s order compelling complainant to undergo an unnecessary and potentially dangerous medical test. The complainant stated that complainant currently resides in Texas and now has to travel to California. Complainant complained that the Agreed Medical Evaluator (AME) only examined the complainant once but determined that complainant could endure a plane trip from Texas to California. Complainant complained that the judge ignored the information sent to the judge about the dangers of increased radiation exposure from CT scans.

Complainant believed that the judge was biased against complainant because the judge appeared to believe that complainant was somehow receiving better benefits or medical treatment because complainant did not have California laws to comply with.

Complainant stated that the judge had approved defendant’s motion to compel, granted complainant’s attorney to be relieved as counsel (despite the lengthy written objection), approved defendant’s motion to take the matter off calendar and to pursue non-binding medication, and issued an order limiting communications.

Complainant filed for a Mandatory Settlement Conference and appeared telephonically. Complainant complained that the judge would not allow complainant to update the parties on complainant's medical condition and ambulatory needs. Complainant complained that the judge responded "I do not want to hear that now," and instead talked for 35 minutes and only inquired as to whether complainant would comply with the judge's order. Complainant complained that complainant's spouse was not allowed to ask questions because the judge stated these kinds of communications are unprecedented and should not occur. The judge then allegedly hung up.

Complainant believed that the judge and defendant's attorney discussed the case without any opportunity for complainant to participate. Complainant stated that the written appeals to participate by phone were ignored.

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.

**16.** Complainant, a lien claimant, claimed that the judge was unfair and malicious towards workers' compensation lien holders. Complainant complained that the judge behaves like the defense trying to turn every stone to dismiss the lien. Complainant also complained that complainant was sanctioned without having done anything wrong. Complainant complained that the judge should have given lien claimant time to "add billing statement to the bill."

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.

**17.** Complainant, an unrepresented applicant, alleged that the judge forced applicant to see an agreed medical evaluator (AME) picked by the defendant. The

complainant also complained that the judge gave many unreasonable oral instructions and failed to put any orders or instructions in writing. Complainant also claimed that the judge wanted to dismiss complainant's case, even though complainant emailed the court to advise that complainant was sick and would not make it to trial. Complainant also emailed the I&A officer requesting that complainant's case be put on inactive status, as complainant may be out of the country in the near future.

Complainant filed a Petition for Disqualification based upon actual bias. The judge prepared a Report and Recommendation on complainant's Petition for Disqualification. In the Report, the judge wrote that, after discussing the issue with the parties, and with the I&A officer, the parties were referred for an Independent Medical Examination (IME). The judge wrote that this was not done over the objection of application; no removal was filed at that time. The judge later learned that complainant filed an ethics complaint and upon learning that complainant was upset about the referral, restored the case to the calendar and the matter was set for trial.

Applicant failed to appear for trial and the judge issued a Notice of Intention to Dismiss the case. Applicant filed a subsequent Petition for Disqualification based upon the Notice of Intent to Dismiss. The judge prepared a response to complainant's petition, indicating that the judge did not receive any response other than the petition to disqualify. The judge noted that the complainant wishes to put the case on "inactive" status, which is consistent with complainant's lack of cooperation in moving the case forward.

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.** Complainant, an unrepresented applicant, complained that the judge 1) tampered with and changed evidence; 2) made false and fraudulent written statements; 3) made up the judge's own Labor Code section 4062.2(i); 4) violated California Code of Civil Procedure section 1858; 5) violated 3 branches of government; 6) and used duress, threats, coercion and blackmail against complainant.

Complainant alleged that the Minutes of Hearing dated March 9, 2011, was different from complainant's copy of the Minutes of Hearing. Complainant also alleged that the judge allowed defendants to illegally submit exhibits that were not served on complainant. The complainant alleged that, at trial, complainant's verbal objections were not recorded. The complainant complained that the judge's written statements made deliberate, willful, and malicious false and fraudulent statements concerning complainant's subpoena duces tecum. Complainant complained that the judge, in looking after the judge's and defendant's own interests, lied and switched and tampered with the evidence. Complainant complained that the judge was laughing at complainant and the judicial system by writing "even otherwise deserving claimants who seek benefits under workers' compensation must in some fashion play by the rules of that system, which include Labor Code sections 4053 and 4054."

Complainant complained that the Commissioners have continued to agree with the judge regardless of the evidence presented to them. The complainant alleged that the judge had used the term "irregularities" to escape the truth and suppress the judge's unlawful acts.

Complainant alleged that defendants refused to serve documents on complainant. The complainant complained that because complainant has been declared a vexatious litigant, complainant must obtain permission before serving a subpoena. Complainant complained that the defendant, the judge, and the doctor have conspired against the complainant by ignoring complainant's lawful demands.

Complainant claimed that complainant cannot be held to the written statements complainant made while under duress. Complainant stated that the trial was a farce and a criminal act against the State of California and tax payers.

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.** Complainant, a representative for a lien claimant, complained that the judge refused to listen to complainant and that the judge did not want to understand the disputed issues. Complainant alleged that the defense made misleading and disoriented statements to mislead the court, and refused to pay fees that complainant is entitled to.

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.** Complainant, an unrepresented applicant, complained that the judge has conducted complainant's case with bias and prejudice by accommodating the defendants. The complainant alleged that the judge had no legal evidence to declare the complainant a vexatious litigant in 2010, a declaration based on a false petition filed by defendant.

The complainant alleged that the judge was not intending to follow through with the Minutes of Hearing that the judge wrote; the judge was buying time to help defendants strategize to prevent complainant from presenting the facts to defend the case.

Complainant further complained that, at a hearing, defense counsel was interrupting and harassing complainant, but the judge did not stop the behavior. In addition,

complainant alleged that the judge is unethical because the judge had been accommodating the defendant's unethical practice of law.

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.** Complainant, an unrepresented applicant, complained that the judge exhibited contempt and prejudice against complainant. The complainant alleged that complainant wrote to the judge and defense counsel asking that the case be put on hold to obtain new counsel. However, defense counsel responded by seeking a status conference. Complainant wrote to the judge stating complainant could not travel after having surgery and did not have any money to travel. The judge responded to complainant with a letter telling the complainant not to contact the judge without contacting all parties.

Complainant alleged receiving two court orders for the complainant's phone number which the complainant had previously provided. The court order also indicated that complainant was unreachable, a claim that the complainant denies. Complainant waited all day by the phone but did not receive a call from the court. Complainant also complained that the court favors the defendant while the court holds the complainant in contempt.

Complainant provided a copy of the judge's Report and Recommendation for Disqualification written in response to complainant's "Right of Substitution with Cause."

In this report, the judge wrote that from the tenor of the letter, it appeared complainant was seeking to disqualify the judge from hearing any further matters on complainant's cases. The judge wrote that complainant had 12 cases and complainant sought to disqualify the judge on all of the cases. The judge is currently assigned to only two of the cases that were submitted for decision in February of

2013, in addition to a Findings and Award issued in July 2013. In February of 2014, the complainant dismissed his counsel. At the status conference, the complainant informed the parties of complainant's new address. At a hearing scheduled in June of 2014, the judge was not aware of complainant's phone number at that time. The I&A officer noted the number in the record, but the court was unaware of this development. Thus the matter was rescheduled to July of 2014. The complainant was advised of the court's mistake. At present, the judge is not the assigned trial judge on the two cases that proceeded to a status conference. At the time these matters are set for trial, the complainant can exercise the right to have a different trial judge.

Complainant further claimed that the judge allowed the insurer to retroactively apply the insurance policy to cover for year 2009. The complainant complained that the judge had allowed a non-insured company to backdate a workers' compensation policy five years and then "say that I worked for another company."

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.** Complainant, an unrepresented applicant, alleged that the judge was complicit in fraud against the complainant. The complainant complained of corruption at the board. The complainant stated that the board did not process or put in the system all of the "files."

Complainant previously filed three complaints against various judges, complaining of corruption and fraud. The committee reviewed the prior complaints and concluded no further action should be taken.

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.** Complainant, an unrepresented applicant, alleged that because complainant has had litigation against the judge, the judge issued unjust rulings. Complainant complained that the judge wanted to further develop the medical record, refusing to accept the medical opinions of the panel QME. Complainant complained that this is contrary to the Labor Code sections 5803 and 5701. Complainant alleged that the judge refused to enforce discovery and was influenced by prior litigation.

Complainant previously filed a complaint alleging bias against this same judge. The committee reviewed the prior complaint and concluded no further action should be taken.

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.** Complainant, an unrepresented applicant, alleged that the courts have refused to rule on what is put in front of them. Complainant complained that the courts declined to enforce their own orders on permanent disability and lifetime medical award. The complainant further alleged that the courts have allied with the defendant to file false documents. Complainant attached a letter, dated December 29, 1987, to a judge from defendant, objecting to setting the matter for hearing. The letter states that the complainant had received all temporary disability due, a Findings and Award for permanent disability, a reopening of the case for additional permanent disability, and vocational rehabilitation. The letter states that there are no further benefits the applicant can possibly obtain. Complainant also attached a letter, dated September 25, 1989, from defendant to the judge, again objecting to setting the matter for trial. It states that complainant is not permanent and stationary and receiving benefits from the employer. Complainant claimed that those two letters show that the attorneys for the defendant were committing perjury by stating

that applicant was not permanent and stationary. Complainant argued that this has been put before the courts approximately 20 times with no rules.

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.

**25.** Complainant, an unrepresented applicant, complained that they had a special meeting on August 8, 2009, and that "they" offered the case for \$92,500. Complainant wrote "we committed a very little error, please we ask for a pardon & forgiveness. I am asking justices, thank for your attention. Agreements & Humanitarians \$92,500 – thanks so much."

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.** Complainant, an applicants' attorney, alleged that the PJ conspired with the defendant to make complainant pay for costs and sanctions when complainant did not engage in bath faith tactics. Complainant complained that the judge exercised bias and prejudice towards a non-local attorney.

Complainant wrote that this matter was initially set for a Mandatory Settlement Conference for October 2, 2013. The parties agreed to a continuance of the hearing and the matter was rescheduled for November of 2013. The parties reached a tentative settlement agreement, and complainant understood that defendant would appear to request a continuance of the November hearing as well, to finalize the settlement documents. Complainant believed that complainant's appearance was not necessary for the November hearing, and did not make travel arrangements nor arrange for a local attorney to appear. Defendant then filed a Petition for Costs and Sanctions for failure to appear. Thereafter, complainant claimed that complainant contacted a judge's secretary to schedule a walk-through of the settlement.

Complainant wrote that because of complainant's mother's medical condition, complainant sought and obtained permission from a judge to allow any knowledgeable attorney to appear in complainant's place at the walk-through.

Complainant complained that the walk-through was handled by the PJ instead. Defendant misrepresented to the PJ that complainant's personal appearance was required. Defendant requested sanctions in excess of \$2,000. The matter was then rescheduled for February 26, 2014. Again, complainant requested permission to allow another attorney to appear. However, the PJ would only excuse complainant's personal appearance if the parties resolved the issue of costs and sanctions raised by defendant. Complainant agreed to pay and resolve the sanctions due to extreme hardship.

Complainant complained that the manner in which the PJ treated complainant would deter complainant from accepting representation of clients in Northern California.

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.** Complainant, a represented applicant, complained that the judge was not listening to complainant's story. Complainant claims to have been injured for 11 years and cannot go anywhere because complainant is pregnant. Complainant wrote that, although the tests were negative, the ultrasound showed that complainant is pregnant. Complainant claimed that complainant should not be in court as complainant has already been deposed.

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.

**28.** Complainant, a represented applicant, alleged that the judge had refused to approve a Compromise and Release. The WCALJ issued an Order Suspending Action on Compromise and Release and set a hearing indicating that the District Office file contained no medical reports and that the attorney fee appeared excessive.

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.

**29.** Complainant, an applicant's attorney, submitted a copy of a Petition for Reconsideration. In that petition, complainant alleged that the PJ abused his or her discretion by imposing sanctions without allowing complainant due process. Complainant also claimed that the judge was retaliating against complainant for having made a complaint about another judge. Complainant filed a judicial ethics complaint against another judge along with a police report claiming that the judge pushed complainant. Four months after this incident, complainant received a Notice of Intent to Issue Sanctions for bad faith conduct. Complainant wrote that sanctions were issued for \$999 for failing to comply with the order of two judges. Complainant was sanctioned for refusing to leave the courtroom when ordered to do so by the two judges.

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. The complaint raised legal issues about the underlying case which are outside the Committee's scope.

**30.** Complainant, a spouse of the unrepresented applicant, alleged that the judge ignored the laws to rule against applicant and is biased and prejudiced against applicant. Complainant asserted that there was no legal basis for apportioning applicant's total permanent disability. Complainant claimed that the judge violated

the California Code of Judicial Ethics by forming or expressing an unqualified opinion or belief, as to the merits of the particular action, and therefore the judge should be disqualified.

Complainant asserted that the judge's ethical violations and illegal actions manifest themselves in the following three forms:

1) At the MSC, Trial, and in the Disability Evaluation Unit (DEU) Rating Instructions and Findings and Award, the judge did not perform the judge's duties impartially or competently, without bias or prejudice, and did not consider only the evidence presented. The complainant asserts that the judge unethically, unilaterally, secretly, and illegally created and found 25% apportionment against applicant.

2) In the judge's Report and Recommendation on the Petition for Reconsideration, the judge, in order to sustain the rulings and deny compensation, violated California Insurance Code section 1871.1, by knowingly making false or fraudulent material statements. The complainant did object to the rating but the judge lied in the Report and Recommendation by stating that the applicant did not object to the formal rating.

3) The judge showed substantial bias, based upon race, because the judge made sure that an armed peace officer was present whenever complainant and applicant were in the courtroom. The judge also demonstrated bias by "reaching back to apply apportionment" and amending a prior order.

Complainant attached Applicant's Petition for Reconsideration addressing the legal issues that complainant claimed stemmed from the judge's ethical violations. The complainant complained that the judge unilaterally created the issues of apportionment and made an incorrect apportionment ruling.

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.

**31.** Complainant, an unrepresented applicant, alleged that the judges knowingly and repeatedly had issued void orders favoring the defendants although they lacked lawful jurisdiction to do so. Complainant complained that these orders were a denial of complainant's lawful workers' compensation disability, medical care, and payments. Complainant also claimed that these orders violated Independent Medical Review (IMR) requirements, Senate Bill 863, and the 5<sup>th</sup> and 14<sup>th</sup> amendments of the Constitution. In addition, complainant complained that these judges engaged in or sanctioned employer 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.

**32.** Complainant, an unrepresented applicant, complained that the judge was biased. Complainant alleged that the judge's decision appears to be one-sided because the judge relied solely upon the reports of the QME and a workers' compensation doctor. Complainant complained that the judge indicated that a decision would be made in approximately 90 days, however, the judge issued a decision in just under 6 weeks. The complainant did not believe that the judge had read all of the evidence that was submitted because the judge only references the workers' compensation doctors. Complainant claimed to have presented evidence that the QME's report was biased. Complainant claimed that the judge found the QME credible which complainant understood to mean that all of the doctors complainant has seen at the clinic are not. Complainant claimed that the judge's omission of the treating physicians' reports shows extreme bias.

Complainant also complained that the judge showed extreme bias and prejudice by advocating for the QME. The complainant complained that the judge had reduced

the cumulative trauma date and dismissed the evidence complainant submitted at trial. Complainant believes that the judge was working in concert with defense without complainant's knowledge to deny complainant workers' compensation benefits.

Complainant complained that the judge allowed the QME to recreate the medical history by misrepresenting the medical records in the doctor's reports and by presenting fraudulent information that did not exist. The complainant alleged that the judge showed extreme bias by eliminating the continuous trauma (CT) date of injury to only the dates of employment, which negated the CT injuries during that time.

Complainant alleged that the judge and defense counsel have been in communication with each other without the complainant's presence or knowledge.

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.** Complainant, an unrepresented applicant, alleged that the judge changed the board number on complainant's case and that the original board number was not allowed, thus complainant's case remains unresolved for the past 18 years.

Complainant asserted that complainant filed an Application for Adjudication in 1984. A board-issued number was provided. The complainant stated that the case remained dormant for four years. Complainant stated that, on July 25, 1988, an award and order was issued in favor of complainant, who was awarded future medical treatment and permanent disability. Complainant stated that at the time the award was issued, there had been no approval of the Stipulation agreement by the WCAB. Complainant complained that since there was no approval and no board-issued number, the insurance company never paid the award. Complainant filed a

Declaration of Readiness to Proceed in 1996 and the judge who presided over the case, changed the board number. The complainant stated that the reason for this change was because the insurance company signed the stipulated agreement under a Board claim number. The complainant asserted that the judge knew that this was the case when complainant first appeared before the judge. The judge denied every benefit and appeal.

Complainant complained that the judge had denied the motion to set aside the stipulation and compromise and release. Complainant alleged that throughout the 18 years the judge has presided over this case, the complainant has received nothing but orders and paperwork and has received no benefits. Complainant claimed that the judge had denied complainant's right to discuss the validity of the stipulation because the judge applied one stipulation to two board numbers. The complainant claims that the judge shifted the award that was issued in 1988 to a number that the complainant did not file an application for.

Complainant asserted having filed two amended applications, to which the judge has not responded. Complainant complained that the board had failed to follow its own rules in having complainant's injuries evaluated by the (DEU).

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.** Complainant, an unrepresented applicant, alleged that the judge made a material false statement regarding the history of complainant's injury upon which the primary treating physician (PTP) relied. Specifically, complainant complained that the judge had noted in the Opinion on Decision that the PTP's reports relied entirely on complainant's claim of being pressured by each manager to do their work first. The complainant stated that the PTP did not mention this, but rather, it was defendant's doctor, who relied upon this statement. The complainant also complained that the

judge failed to consider the employer's illegal and criminal conduct of failing to pay overtime compensation to support the judge's opinion that there was no injury to the psyche as claimed.

Complainant alleged that it was illegal and unethical for the judge to reach an opinion by failing to include essential evidence of the employer's criminal history. The complainant alleged that the employer's criminal conduct of extortion contributed to complainant's psyche injury. However, the judge found that the concerns expressed by complainant had not actually transpired, such as the possibility of immigration fraud issues resulting from accuracy of the job description or rate of pay.

Complainant claimed that the judge made a material false statement in the Report and Recommendation on Petition for Reconsideration by stating that complainant raised issues that could not be addressed by the judge because they related to documents attached to the Petition but never offered or admitted at trial. However, complainant asserted that the majority of evidence relied upon was in the summary of 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.

**35.** Complainant, an unrepresented applicant, complained that the judge refused to have defendants pay complainant at the rate of pay that the complainant actually earned. The complainant claimed that the judge did not make defendants produce any evidence concerning the issues that have been established in complainant's case, including entitlement to medical treatment.

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 (11 total)**

1. Complainant, an unrepresented applicant, complained that the judge denied complainant due process and reprimanded complainant. Complainant claimed that the judge yelled at complainant to “not to bother the Court and not to bother the I&A officer!” Complainant asserted that not only does complainant have a right to ask for assistance, but actually has a letter from the DWC directing complainant to contact the I&A officer.

The Committee concluded that this matter should be investigated.

2. Complainant, an unrepresented applicant, alleged that the judge lacked jurisdiction to preside over complainant’s workers’ compensation case. The complainant claimed that complainant is disabled and did not have a properly appointed guardian ad litem. Complainant alleged that the judge exceeded the judge’s jurisdiction and acted in bad faith when the judge appointed complainant’s daughter as the guardian ad litem during the Compromise and Release hearing. Complainant’s daughter told the judge that she did not have any information regarding complainant’s case and could not properly represent complainant. The judge told complainant’s daughter that if she did not accept the appointment, she would be held in contempt of court. Complainant stated that complainant’s daughter was forced to sign the Compromise and Release under duress and undue force.

The Committee concluded that this matter should be investigated.

3. An anonymous complainant complained that the judge used the judge’s name for judicial prestige. Complainant alleged that the judge (or judge’s spouse) uses hyphenated last names on checks to benefit the judge’s spouse’s office. The complainant alleged that the judge also uses the judge’s position to secure ratings

for the judge's spouse quicker than the rest of the public. The complainant complained that the judge also discussed pending matters with the judge's spouse, who appears at the various boards.

The Committee concluded that this matter should be investigated.

**4.** Complainant, an unrepresented applicant, alleged that the judge has violated the Code of Judicial Ethics by having personal knowledge of disputed evidentiary facts; having actual bias in favor of defendant; and failing to perceive evidence properly to conduct proceedings.

Complainant stated that the judge had personal knowledge of disputed evidentiary facts because the judge refused to accept the final medical reports of the QMEs that consider complainant to be a qualified injured worker. Instead the judge has ordered complainant to see an AME without complainant's agreement. In addition, complainant complained that the judge wanted to dismiss complainant's cases because complainant was sick and did not go to a hearing.

Complainant also alleged that the judge has actual bias in favor of defendant because the judge refuses to accept the final medical reports. The judge had the AME create medical reports without seeing complainant.

Complainant alleged that the judge was unable to perceive evidence properly due to the judge's physical impairment. The judge failed to put the judge's instructions on paper and the judge's oral instructions were always contrary to the judge's own words and contrary to the hearing notice that the complainant later received.

The Committee concluded that this matter should be investigated.

**5.** Complainant, an unrepresented applicant, alleged that the judge was dishonest and omitted vital medical records. The complainant alleged that the judge, in the Findings of Fact and Order of November 8, 2012, lied, by writing that the QME's "report did not address causation and is written in terms of applicant's overall level of disability without consideration for what medical problems are non-industrial." The complainant claimed that the DEU issued a consultative rating and found no fault in the report. The judge omitted the consultative rating in the Findings of Fact and Order. The complainant further claimed that the judge is not only partial to defendants and biased but expresses an unwillingness to perceive and acknowledge the truth. The complainant claimed that the judge also omitted several reports by physicians in the judge's Findings of Fact and Order.

In addition, complainant claimed that at a hearing in March of 2014, complainant was instructed to bring in evidence and if complainant did not have the exhibits that complainant would not be allowed to proceed. The complainant stated that complainant requested a pre-trial to be scheduled so that complainant could prepare the exhibits. Complainant felt that complainant was denied due process and that complainant was bullied based upon race and gender.

The Committee concluded that this matter should be investigated.

**6.** Complainant, an unrepresented applicant, complained that the PJ discriminated against a disabled unrepresented injured worker by restricting equal access to the Board. The complainant alleged that the PJ had the clerk use a CHP officer to restrict complainant's access to the Board. The complainant alleged that complainant arrived at the clerk's window to view a case file. The clerk then contacted the PJ who instructed the clerk to have the CHP remove complainant. The CHP threatened arrest and escorted the complainant out of the building.

Complainant alleged that the PJ confirmed accepting ex parte communication from defense counsel in the form of a “walk-through.”<sup>1</sup> Complainant believed that the PJ breached the judge’s fiduciary duty to complainant and defendant by not upholding the California law to protect self-represented claimants.

Complainant alleged that the Board refused to honor a request for public records at the direction of the PJ. Complainant claimed that the PJ has instructed the clerks to restrict access to the files. Complainant alleged that complainant was told to limit the Petition for Reconsideration to 12 pages and the PJ restricted any further filing by complainant to 10 pages. The complainant stated that the PJ, over complainant’s objections, began to question complainant about the merits of the objection and stay. The complainant stated that the PJ then began removing documents from the case file and that the PJ had signed the Order granting Defendant’s Petition to Compel. The complainant claimed to not have received notice of a walk through informing complainant that such documents would be submitted. Complainant alleged that this document was received ex parte and that the PJ failed to notify complainant of the Motion to Compel that was filed by defendant. The PJ took no action after receiving a written complaint outlining the discrimination by the I&A officers, who refused to answer any questions regarding filing for sanctions and penalties but. The clerks also misinformed the PJ that complainant is a vexatious litigant.

The Committee concluded that this matter should be investigated.

**7.** Complainant, an unrepresented applicant, complained that the judge dismissed complainant’s prior attorney. The complainant alleged that at an initial mandatory settlement conference, the complainant was hoping to resolve many issues that the complainant’s prior attorney created. The complainant alleged that the judge

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<sup>1</sup> A “walk-through” document is a document presented to a workers’ compensation judge for immediate action pursuant to California Code of Regulations, title 8, section 10417.

dismissed the attorney even though the attorney was not present. The attorney was dismissed on grounds of personal conflict. Complainant alleged that the judge said that the defense attorney was “one of the good guys.” The complainant complained that this was unethical and represented a conflict of interest. Complainant further complained of being unable to attend a meeting due to medical issues, whereas the judge allowed defense to be dismissed to attend another meeting.

The Committee concluded that this matter should be investigated.

**8.** Complainant, an unrepresented applicant, complained that the judge was prejudiced and biased against complainant. The complainant alleged that while walking in, the judge apologized for the way the judge was dressed. Complainant complained that the judge was wearing a t-shirt, blue jeans, and hiking boots under the robe.

The complainant pointed out that the judge allowed defense to submit surveillance photos as evidence without prior disclosure between the parties. The complainant disputed the judge’s summary of findings pointing to various reports and exhibits. The complainant also complained that the judge failed to consider newly discovered evidence. Complainant complained that the judge continues to reprimand and antagonize complainant.

The Committee concluded that this matter should be investigated.

**9.** Complainant, a lien claimant and spouse of the represented applicant, complained that the judge who was not the trial judge signed the Compromise and Release. The complainant asserted that the judge had a conflict of interest and failed to recuse. The judge was a former law partner with the defense attorney’s firm and engaged in full conversation and negotiation with the firm, outside the presence of the applicant and lien claimant. Complainant also complained that the judge

dismissed all liens without having any legal jurisdiction to do so and engaged in the obstruction of justice by adding and abetting the denial of due process.

Complainant attached a copy of the applicant's Compromise and Release. The settlement includes the dismissal of complainant's bills and liens in exchange for payment to the applicant for settlement of all issues and bills for out-of-pocket expenses.

The Committee concluded that this matter should be investigated.

**10.** Complainant, a lien representative, complained that the judge called the lien claimant's office and stated that the doctor was ordered to appear at the hearing and that failing to comply with the order could result in arrest by a police officer. The complainant claimed that there was no such order and that the judge was being dishonest.

Complainant complained that the judge failed to be dignified and courteous. The complainant complained that the threats implied by the judge to an office staff member and the fact that the doctor was away observing a religious holiday was disrespectful and harmful to the doctor's reputation. Complainant explained to the judge that the doctor was unable to be reached due to observance of a religious holiday. Complainant claimed to have explained to the judge that the doctor would be unavailable for three days, but the judge adjourned the case to the following day. The following day, a letter was presented explaining that the doctor was unavailable due to the three-day observance of the holiday and therefore could not secure a date when it was certain that the doctor would be available. The judge then issued an order ordering personal appearance of the doctor without allowing the doctor to have an opportunity to object to the Order. Complainant complained that such actions demonstrate intolerance and harassment of the doctor.

Complainant claimed to have reported this to the PJ, resulting in a course of retaliation by the judge. The judge made statements concerning the judge's intention to issue sanctions and stated that it wasn't a matter of whether sanctions would be issued but how much.

Complainant filed a Petition for Disqualification dated October 6, 2014, and as stated in the Petition, complainant alleged that the judge, prior to beginning the trial made statements committing the judge to a particular result. Complainant claimed this included statements such as "I don't believe you" when complainant explained that lien claimant was in a three-day religious observance.

Complainant also alleged that the judge conducted an independent investigation of facts by initiating the phone call to the doctor's office to find out whether the doctor intended to appear. At issue in the sanction proceedings was whether the doctor's failure to appear was justified. The judge stated that the judge intended to award defendant hourly fees for the doctor's failure to appear.

The Committee concluded that this matter should be investigated.

**11.** Complainant, a lien representative, was aware that another complaint had already been made against the judge regarding the same issue. However, this complainant felt so strongly about the fact that this judge acted improperly that complainant felt compelled to make a separate complaint against this judge. The complainant appeared as a witness at the hearing. Complainant complained that the judge lied about the Notice to Appear, explaining in a telephone call to the staff member the doctor's office that the doctor was ordered to appear. The complainant alleged that this was a lie. Complainant alleged that the judge appeared smug, negative, and downright abusive to all the parties. The matter was adjourned to the following day and complainant appeared alone before the judge. Complainant alleged that the judge continued to threaten sanctions and did issue a Notice of

Intent to Issue Sanctions against complainant even though complainant appeared at the hearing to inform the judge that the doctor could not be reached and was thus unable to commit the doctor to a specific date to appear. The complainant felt that the \$500 sanction against the complainant was undeserved. Complainant believes that the judge was also abusive and disrespectful to complainant.

The Committee concluded that this matter should be investigated.

### **C. Pending Complaints Filed after the Final EAC Meeting of 2014 (6 total)**

1. Complainant, an unrepresented applicant, complained that the judge was biased and had committed perjury. The complainant alleged that the judge's decision on the case was based upon perjury, the judge's perception of the complainant, and not the facts of the case. Complainant complained that complainant's civil rights were violated by the employer based on age, race, disability discrimination, retaliation, battery, assault, defamation, prejudice and inadequate legal representation from the judge, complainant's attorney, the defense attorney, and witnesses for the employer.

2. Complainant, a Return-to-Work Counselor, complained that the judge approved a Compromise and Release that included settlement of the Supplemental Job Displacement Voucher (SJDB) voucher, in violation of Labor Code section 4658.7(g), resulting in the loss of a \$6,000 voucher to the injured worker. The complainant complained that complainant was contacted by the injured worker requesting assistance in finding training suitable for the injury and to obtain a copy of the voucher.

3. Complainant, a Return-to-Work Counselor, alleged that the Complainant, a Return to Work Counselor, complained that the judge approved a Compromise and Release that included settlement of the SJDB voucher, in violation of Labor Code section 4658.7(g), resulting in the loss of a \$6,000 voucher to the injured worker.

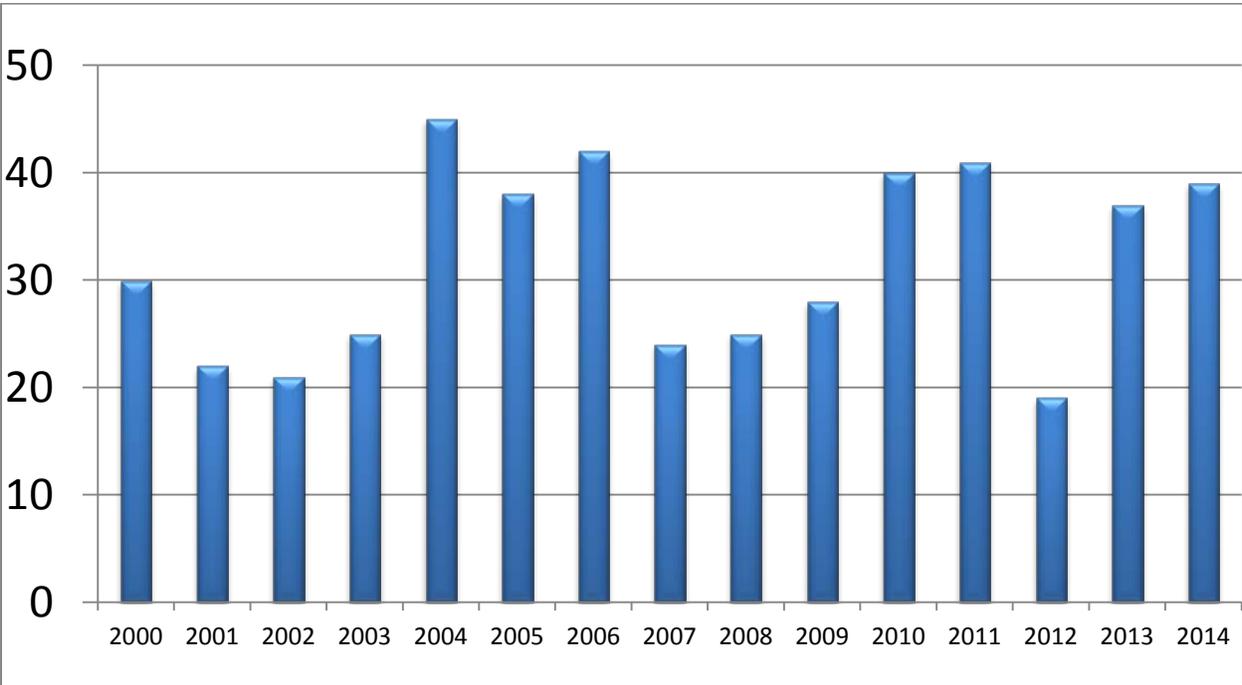
The complainant was contacted by the injured worker requesting assistance in finding training suitable for the injury and to obtain a copy of the voucher. Complainant provided a copy of the Compromise and Release and Order approving Compromise and Release.

4. Complainant, a Return-to-Work Counselor, complained that the judge approved a Compromise and Release that included settlement of the SJDB voucher, in violation of Labor Code section 4658.7(g), resulting in the loss of a \$6,000 voucher to the injured worker. Complainant was contacted by the injured worker requesting assistance in finding training suitable for the injury and to obtain a copy of the voucher. Complainant provided a copy of the Compromise and Release and Order approving Compromise and Release. The Order is a check list with the box checked for a *Carter/Rodgers* release and handwritten next to it states, "supplement job displacement." The Compromise and Release shows that the applicant is represented and the settlement is for \$7,000 resolving a CT injury of January 1, 2014 through May 28, 2014. The Compromise and Release also shows that no benefits were paid as this was a denied claim.

5. Complainant, a Return-to-Work Counselor, complained that that the judge approved a Compromise and Release that included settlement of the SJDB voucher, in violation of Labor Code section 4658.7(g), resulting in the loss of a \$6,000 voucher to the injured worker. Complainant was contacted by the injured worker requesting assistance in finding training suitable for the injury and to obtain a copy of the voucher. Complainant provided a copy of the Compromise and Release and Order approving Compromise and Release. The Order indicates in handwritten notes "all voucher benefits are settled." The Compromise and Release shows that applicant is represented. The settlement is for a 2012 date of injury resolving the matter for \$53,947.47 less permanent disability previously paid.

6. Complainant, a Return-to-Work Counselor, complained that the judge approved a Compromise and Release that included settlement of the SJDB voucher, in violation of Labor Code section 4658.7(g), resulting in the loss of a \$6,000 voucher to the injured worker. Complainant was contacted by the injured worker requesting assistance in finding training suitable for the injury and to obtain a copy of the voucher. Complainant provided a copy of the Compromise and Release and Order approving Compromise and Release. The Order has a checklist, however, the box indicating that the supplemental job displacement benefit is settled is not checked. The Compromise and Release indicates that the applicant is unrepresented. The settlement is for \$20,000, resolving a CT injury from February 18, 2013 through October 21, 2013. The Compromise and Release also shows that no benefits were paid and the parties initialed settlement of SJDB benefits in the Compromise and Release.

**Chart 1: Complaints of Misconduct Filed with the Ethics Advisory Committee, 2000-2014**



**2014  
COMMITTEE MEMBERSHIP**

**HON. ALICE VILARDI**

**Chair**

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

**HON. TIMOTHY HAXTON**

Workers' Compensation Judge  
Workers' Compensation Appeals Board  
Salinas

**HON. PAIGE LEVY**

Presiding Workers' Compensation Judge  
Workers' Compensation Appeals Board  
Marina del Rey

**HON. JOYCE CRAM**

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

**ROBERT RUBY, ESQ.**

Former Defense Attorney  
Workers' Compensation Law

**MICHAEL McCLAIN, 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**

Former Applicants' Attorney  
Workers' Compensation Law

**DWC STAFF**

**Richard Newman**

Chief Judge

**Karen Pak**

DWC Attorney

**Ursula Jones**

Adm. Assistant

## Acronyms

AME	Agreed Medical Evaluator
CT	Continuous Trauma
DEU	Disability Evaluation Unit
DOR	Declaration of Readiness
DWC	Division of Workers' Compensation
EAC	Ethics Advisory Committee
I&A	Information and Assistance
IME	Independent Medical Evaluator
IMR	Independent Medical Review
MSC	Mandatory Settlement Conference
PJ	Presiding Judge
QME	Qualified Medical Evaluator
SJDB	Supplemental Job Displacement Benefit
WCAB	Workers' Compensation Advisory Board
WCALJ	Workers' Compensation Administrative Law Judges