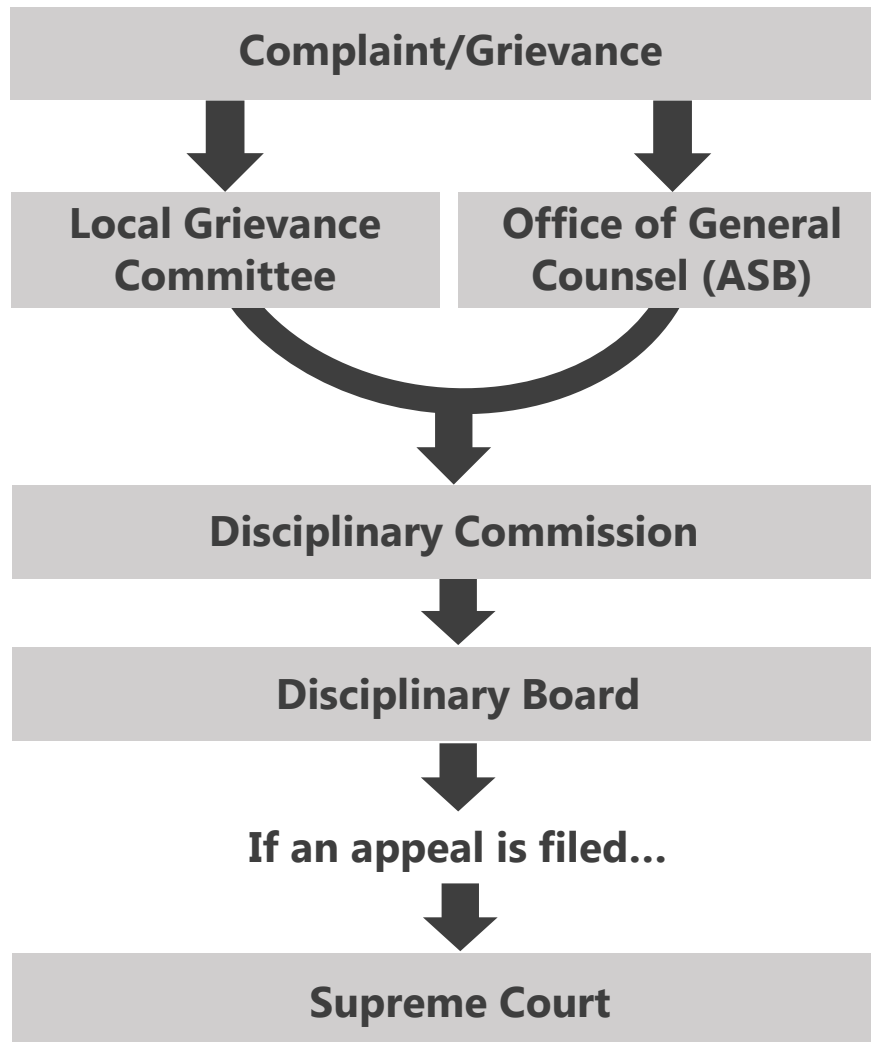


# The Disciplinary Process

**Cooper Shattuck**  
General Counsel  
The University of Alabama System

# Grievance Flowchart

[Complaint Against Lawyer Form – Alabama State Bar](#)



# Who?



# Jurisdiction

Jurisdiction applies to:

- 1. Lawyers admitted to practice law in Alabama**
- 2. Incumbent judges**
  - Misconduct occurring before they became judges
- 3. Former judges** (who have resumed their status as lawyers)
  - Misconduct that occurred *while* they were judges, *before* they became judges, or *after resumption* of the practice of law



# Surrender of License

Surrender of license does **not** divest the Disciplinary Commission or a local grievance committee from investigating and bringing charges for misconduct.



# What?



# Grounds for Discipline

Discipline may be imposed for any of the following:

- 1. Conviction of a crime;**
- 2. Violation of a rule of professional conduct** (whether or not that violation occurred in the course of the lawyer-client relationship);
- 3. Discipline imposed in another jurisdiction;**
- 4. Violation of Rules of Disciplinary Procedure;**
- 5. Violation of or failure to comply with an order of the Disciplinary Commission or Disciplinary Board; or**
- 6. Failure to respond to a request for a response or for information in a matter involving lawyer conduct**



# Types of Discipline

1. **Disbarment** (5 years)
2. **Suspension** (45 days to 5 years)
  - If less than 90 days, automatic reinstatement.
3. **Interim suspension**
  - "Serious crime"
  - Likely to cause immediate and serious injury to client or public
4. **Indefinite suspension** (CSF, CLE, IOLTA)
5. **Public Reprimand** (with or without general publication)
6. **Private Reprimand**
7. **Probation**
8. **Other** (Rule 8(h), A.R.D.P.)





# Investigation by Local Grievance Committee (LGC)

1. How appointed?
2. An LGC has the right to investigate an allegation or complaint of misconduct of **any member of the Alabama State Bar and any nonresident lawyer admitted pro hac vice pursuant to Rule VII;**
3. Upon conclusion of investigation, an LGC shall decide whether the matter warrants dismissal, imposition of a private or public reprimand, or filing of formal charges before Disciplinary Board.
4. Recommendation to Disciplinary Commission.



# Tuscaloosa County Local Grievance Committee

- **William J. Donald, III** (June 30, 2016)
- **Dennis Steverson** (June 30, 2016)
- **Mary Turner** (June 30, 2016)
- **Jim Standridge** (June 30, 2017)
- **Karen Dice** (June 30, 2017)
- **Danny Lemley** (June 30, 2017)
- **Bryan Brinyark** (June 30, 2018)
- **Jim Gentry** (June 30, 2018)



# Respondent Attorneys' Options

**Private or Public Reprimand** – Respondent may do any of the following within (14) days after advisement of decision:

1. Accept proposed private or public reprimand;
2. Submit, in writing, additional information to DC and request the DC to reconsider the proposed discipline; or
3. Demand, in writing and delivered to ASB General Counsel, that he/she file formal charges with the Disciplinary Board.



# Related Civil or Criminal Investigation

Disciplinary proceedings shall not be deferred or abated because of substantial similarity to the material allegations of a pending criminal or civil litigation involve the respondent, unless authorized by the Disciplinary Board.



# Subpoena Power

- May administer oaths and affirmations and compel by subpoena the attendance of witnesses and the production of relevant documents.
- Subpoenas issued by:
  1. ASB Secretary
  2. A member of the ASB Disciplinary Board or the Disciplinary Commission, or
  3. Chairman of local grievance committee.
- Subpoenas should clearly indicate that it is issued in connection with a confidential proceeding and is regarded as contempt if confidentiality of the proceedings is breached in any way.
- Not a breach of confidentiality for a person subpoenaed to consult with a lawyer.



# Confidentiality

All disciplinary proceedings of ASB shall remain confidential until:

1. Respondent pleads guilty; or
2. Disciplinary Board or DC makes a finding of guilty.



# Statute of Limitations

Formal disciplinary proceedings before the Disciplinary Board must be instituted by the filing of formal charges within:

1. Six (6) years from the accrual of the offense, or
2. Within (1) year following the discovery (by ASB General Counsel or aggrieved party) of fraud by a lawyer which has been concealed



# Most Often Violated Rules of Professional Conduct

1. Diligence
2. Communication
3. Competence
4. Conduct which adversely reflects on lawyer's fitness to practice law
5. Failing to respond to a request for information from a disciplinary authority
6. Safeguarding a client's property





# Most Often Violated Rules of Professional Conduct (cont'd)

7. Fees
8. Declining or terminating representation and/or failing to refund an unearned fee
9. Conduct involving dishonesty, fraud, deceit, or misrepresentation
10. Conduct prejudicial to the administration of justice



# Helpful Hints to Avoid Problems

## 1. Communicate.

- Your client
- Alabama State Bar
- Your insurer
- Law partners
- Office staff

## 2. Ask for help.

- **Call the Alabama State Bar first.**
- Substances, etc.
- Representation
- Referral
- Management

