



# JUDICIAL STANDARDS COMMISSION

## STATE OF MONTANA

ROOM 315, JUSTICE BLDG.  
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PO BOX 203002  
HELENA, MONTANA 59620-3002  
TELEPHONE (406) 444-2608  
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**COPY**

### CHAIRMAN

HON. ED McLEAN  
District Court Judge  
Missoula County Courthouse  
200 W. Broadway  
Missoula, MT 59802-4292  
Telephone: 523-4771

February 13, 2007

### VICE CHAIRMAN

VICTOR F. VALGENTI  
Attorney at Law  
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Mike Cooney, President of the Senate ✓  
Scott Sales, Speaker of the House  
State of Montana  
Sixtieth Legislature  
State Capitol  
Helena, Montana

### MEMBERS

HON. GARY L. DAY  
District Court Judge  
Custer County Courthouse  
1010 Main Street  
Miles City, MT 59301  
Telephone: 874-3335

Dear President Cooney and Speaker Sales:

PATTY JO HENTHORN  
PO Box 717  
Big Timber, MT 59011-0717  
Telephone: 932-4635

As required by §3-1-1126, MCA, the Montana Judicial Standards Commission (Commission) submits this report to the legislature for the preceding biennium covering calendar years 2005 and 2006.

JOHN MURPHY  
1806 Beech Drive  
Great Falls, MT 59404  
Telephone: 771-4838

Article VII, Section 11, of the 1972 Montana Constitution directs the legislature to create a five member Judicial Standards Commission to accept and consider complaints against Montana judicial officers. The 1973 legislature created the Commission and it is attached to the Montana Supreme Court for administrative purposes. The work, investigations, and recommendations of the Commission are independent of the Supreme Court. Access to Commission records is limited to the Commission and staff.

### EXECUTIVE SECRETARY

SHAUNA RYAN  
Montana Supreme Court  
Room 315, Justice Building  
PO Box 203002  
Helena, MT 59620-3002  
Telephone: 444-2608

The Commission's report to the fifty-ninth legislature (2005 session) showed that nine (9) complaints were still pending at the close of 2004. Of those pending complaints, all were reviewed and dismissed in 2005.

As shown in the attached spreadsheet, fifty-four (54) complaints were filed against judicial officers in calendar year 2005. After consideration and investigation, twenty-five (25) complaints were dismissed. There were twenty-nine (29) complaints pending as of December 31, 2005.

### ADMIN. SECRETARY

SHELLY HINSON  
Telephone: 444-2634

In the early part of 2006, twenty-seven (27) of those pending complaints were dismissed and two (2) were closed with an advisory letter to the judge.



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For calendar year 2006, thirty-one (31) complaints were filed against judicial officers. After consideration and investigation, twenty-one (21) complaints were dismissed, and two (2) were closed with letters of admonition to the judge. There were eight (8) complaints pending as of December 31, 2006.

Should any member of the legislature, or staff, have questions or need additional information, they may contact Shauna Ryan, the Commission's executive secretary, or any member of the Commission.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Ed McLean".

Hon. Ed McLean, Chairman  
JUDICIAL STANDARDS COMMISSION

/sr

Attachment

cc: Carol Williams, Senate Majority Leader  
Corey Stapleton, Senate Minority Leader  
John Mudd, Secretary of the Senate  
John Parker, House Democratic Leader  
Michael Lange, House Republican Leader  
Marilyn Miller, Chief Clerk of the House  
Hon. Karla M. Gray, Chief Justice of the Supreme Court  
Rep. John Parker, Chair, Law and Justice Interim Committee

Statistics for Calendar Years  
2005-2006

<u>Case #</u>	<u>Date Filed</u>	<u>Type of Complaint</u>	<u>Disposition</u>	<u>Date of Disposition</u>
04-021	07/27/04	Essential Conduct	Dismissed	05/26/05
04-022	07/29/04	Judicial Opinion	Dismissed	02/11/05
04-024	08/09/04	Essential Conduct	Dismissed	02/11/05
04-031	10/18/04	Delay	Dismissed	05/26/05
04-032	11/09/04	Judicial Opinion	Dismissed	02/11/05
04-033	11/22/04	Essential Conduct	Dismissed	02/11/05
04-034	12/02/04	Avoidance of Impropriety	Dismissed	05/26/05
04-035	12/14/04	Conflict of Interest	Dismissed	02/11/05
04-036	12/15/04	Judicial Opinion	Dismissed	02/11/05
05-001	01/11/05	Judicial Opinion	Dismissed	05/26/05
05-002	01/19/05	Judicial Opinion	Dismissed	02/11/05
05-003	01/19/05	Judicial Opinion	Dismissed	02/22/05
05-004	01/20/05	Avoidance of Impropriety	Closed	05/12/06
05-005	01/26/05	Judicial Opinion	Dismissed	02/11/05
05-006	03/23/05	Judicial Opinion	Dismissed	05/26/05
05-007	02/02/05	Avoidance of Impropriety	Closed	05/12/06
05-008	04/19/05	Judicial Opinion	Dismissed	08/05/05
05-009	05/03/05	Judicial Opinion	Dismissed	05/26/05
05-010	05/26/05	Essential Conduct	Dismissed	08/05/05
05-011	06/03/05	Judicial Opinion	Dismissed	08/05/05
05-012	06/15/05	Court Organization	Letter of Caution	10/18/05
05-013	06/22/05	Unprof. Conduct of Attys	Dismissed	08/05/05
05-014	07/06/05	Judicial Opinion	Dismissed	08/05/05
05-015	07/11/05	Judicial Opinion	Dismissed	08/05/05
05-016	07/13/05	Delay	Dismissed	08/05/05
05-017	07/13/05	Judicial Opinion	Dismissed	08/05/05
05-018	07/13/05	Judicial Opinion	Dismissed	08/05/05
05-019	07/26/05	Judicial Opinion	Dismissed	10/18/05
05-020	08/02/05	Judicial Opinion	Dismissed	10/18/05

<u>Case #</u>	<u>Date Filed</u>	<u>Type of Complaint</u>	<u>Disposition</u>	<u>Date of Disposition</u>
05-021	08/05/05	Essential Conduct	Dismissed	07/12/06
05-022	08/17/05	Avoidance of Impropriety	Dismissed	10/18/05
05-023	08/17/05	Conflict of Interest	Dismissed	01/06/06
05-024	08/17/05	Essential Conduct	Dismissed	10/18/05
05-025	09/01/05	Essential Conduct	Dismissed	01/06/06
05-026	09/13/05	Judicial Opinion	Dismissed	10/18/05
05-027	08/05/05	Avoidance of Impropriety	Public Reprimand	10/25/05
05-028	09/19/05	Judicial Opinion	Dismissed	10/18/05
05-029	09/19/05	Judicial Opinion	Dismissed	10/18/05
05-030	09/19/05	Judicial Opinion	Dismissed	10/18/05
05-031	09/19/05	Essential Conduct	Dismissed	01/06/06
05-032	10/03/05	Judicial Opinion	Dismissed	01/06/06
05-033	10/03/05	Judicial Opinion	Dismissed	01/06/06
05-034	10/03/05	Judicial Opinion	Dismissed	01/06/06
05-035	10/03/05	Judicial Opinion	Dismissed	01/06/06
05-036	10/03/05	Judicial Opinion	Dismissed	01/06/06
05-037	10/05/05	Judicial Opinion	Dismissed	01/06/06
05-038	10/05/05	Judicial Opinion	Dismissed	01/06/06
05-039	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-040	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-041	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-042	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-043	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-044	10/07/05	Judicial Opinion	Dismissed	01/06/06
05-045	10/17/05	Judicial Opinion	Dismissed	01/06/06
05-046	10/24/05	Delay	Dismissed	01/06/06
05-047	10/26/05	Judicial Opinion	Dismissed	01/06/06
05-048	11/02/05	Judicial Opinion	Dismissed	01/06/06
05-049	11/02/05	Judicial Opinion	Dismissed	01/06/06
05-050	12/06/05	Judicial Opinion	Dismissed	01/06/06
05-051	12/06/05	Conflict of Interest	Dismissed	01/06/06
05-052	12/27/05	Judicial Opinion	Dismissed	03/14/06
05-053	12/27/05	Judicial Opinion	Dismissed	03/14/06
05-054	12/28/05	Judicial Opinion	Dismissed	04/28/06

<u>Case #</u>	<u>Date Filed</u>	<u>Type of Complaint</u>	<u>Disposition</u>	<u>Date of Disposition</u>
06-001	01/03/06	Judicial Opinion	Dismissed	03/14/06
06-002	02/02/06	Request for Opinion	Dismissed	04/28/06
06-003	03/08/06	Judicial Opinion	Dismissed	04/28/06
06-004	03/10/06	Judicial Opinion	Dismissed	04/28/06
06-005	03/17/06	Essential Conduct	Dismissed	04/28/06
06-006	03/28/06	Judicial Opinion	Dismissed	09/08/06
06-007	04/05/06	Judicial Opinion	Dismissed	04/28/06
06-008	05/03/06	Judicial Opinion	Dismissed	09/08/06
06-009	06/02/06	Judicial Opinion	Dismissed	09/08/06
06-010	06/08/06	Judicial Opinion	Dismissed	09/08/06
06-011	07/05/06	Judicial Opinion	Dismissed	09/08/06
06-012	07/07/06	Essential Conduct	Dismissed	09/08/06
06-013	07/13/06	Judicial Opinion	Dismissed	09/08/06
06-014	07/13/06	Essential Conduct	Dismissed	12/19/06
06-015	07/17/06	Judicial Opinion	Dismissed	09/08/06
06-016	08/01/06	Judicial Opinion	Dismissed	09/08/06
06-017	08/10/06	Judicial Opinion	Dismissed	09/08/06
06-018	08/15/06	Essential Conduct	Dismissed	12/19/06
06-019	08/15/06	Essential Conduct	Dismissed	12/19/06
06-020	08/15/06	Delay	Letter of Admonition	12/19/06
06-021	09/06/06	Delay	Letter of Admonition	12/19/06
06-022	09/07/06	Essential Conduct	CONT.	
06-023	10/05/06	Judicial Opinion	Dismissed	12/19/06
06-024	10/06/06	Delay	CONT.	
06-025	10/06/06	Essential Conduct	CONT.	
06-026	10/19/06	Essential Conduct	CONT.	
06-027	11/01/06	Essential Conduct	CONT.	
06-028	11/03/06	Judicial Opinion	Dismissed	12/19/06
06-029	11/16/06	Essential Conduct	CONT.	
06-030	11/16/06	Conflict of Interest	CONT.	
06-031	12/08/06	Partisan Politics	CONT.	

- Judicial Opinion: The complaint is grounded in dissatisfaction with a decision of, or judicial opinion of, the judge complained against. The decision is subject to appeal or other corrective action within the court system, and is not cognizable by the Judicial Standards Commission.
- Ex Parte Communication: The complaint is that the judge communicated with one side of a contested matter when the other side was not present or represented.
- Impropriety: The complaint is that the judge acted in an inappropriate manner toward litigants, attorneys, or others involved in litigation. This could include bias, prejudice, or close relationship with a party or lawyer.
- Delay: Lack of promptness in the performance of judicial duties.
- Kinship or Influence: The judge should not suffer his conduct to justify the impression that any person can improperly influence him or unduly enjoy his favor, or that he is affected by the kinship, rank, position or influence of any party or other person.
- Essential Conduct: A judge should be temperate, attentive, patient, impartial, and, should be studious of the principles of the law and diligent in endeavoring to ascertain the facts.
- Court Organization: A judge should organize the court with a view to the prompt and convenient dispatch of its business.
- Unprofessional Conduct of Attorneys and Counsel: A judge should utilize his opportunities to criticize and correct unprofessional conduct of attorneys and counsellors, brought to his attention.
- Partisan Politics: While entitled to entertain his personal views of political questions, and while not required to surrender his rights or opinions as a citizen, it is inevitable that suspicion of being warped by political bias will attach to a judge who becomes the active promoter of the interest of one political party as against another. He should avoid making political speeches, making or soliciting payment of assessments or contributions to party funds, the public endorsement of candidates for political office and participation in party conventions.