

NEW YORK STATE

INDUSTRIAL BOARD OF APPEALS



**David E. Paterson
Governor**

**Mark S. Perla
Member**

**Anne P. Stevason
Chairman**

**Gregory A. Monteleone
Member**

**Susan Sullivan-Bisceglia
Member**

**J. Christopher Meagher
Member**

ANNUAL REPORT

2007

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MEMBERS OF THE BOARD

PAST & PRESENT MEMBERS OF THE BOARD

CHAIRMAN

Benjamin Greenfield	1975 - 1984
Herbert Carr	1984 - 1992
William D. O'Dell	1993 - 1996
Evelyn C. Heady	1996 - 2007
Anne P. Stevason	2007 - Present

MEMBERS

B. Franklin Spencer	1975 - 1976
Richard H. Bolton	1975 - 1978
Harry R. Mason	1975 - 1977
Dominic Revellese	1978 - 1982
William Friedberg	1978 - 1986
Stanley M. Makowski	1978 - 1983
Kurt J. Hain	1979 - 1994
William D. O'Dell	1984 - 1992
Anthony C. Barone	1984 - 1988
Manuel Gonzalez	1985 - 1992
Marie Johnson Wittek	1988 - 1998
Robert L. Marinelli	1992 - 2000
Clifford M. Barber	1995 - 2000
John M. Hekker	1997 - 2000
Mark S. Perla	1997 - 2008
James K. Walsh	2000 - 2000
Theodore R. Kupferman	2000 - 2002
Gregory A. Monteleone	2001 - Present
Walter J. Sakowski, Jr.	2001 - 2007
Kristin A. MacKay	2001 - 2002
Susan Sullivan-Bisceglia	2005 - Present
J. Christopher Meagher	2007 - Present
Mark G. Pearce	2008 - Present

DECEMBER 31, 2007

MEMBERS

ANNE P. STEVASON, ESQ.
CHAIRMAN
Kings County
Brooklyn, New York
Term expires 12/31/12

MARK S. PERLA, ESQ.
MEMBER
Erie County
Clarence, New York
Term expires 12/31/07

GREGORY A. MONTELEONE, ESQ.
MEMBER
Westchester County
Golden Bridge, New York
Term expires 12/31/07

SUSAN SULLIVAN-BISCEGLIA, ESQ.
MEMBER
Dutchess County
LaGrangeville, New York
Term expires 12/31/08

J. CHRISTOPHER MEAGHER, ESQ.
MEMBER
New York County
New York, New York
Term expires 12/31/12

STAFF

SANDRA M. NATHAN, ESQ.
DEPUTY COUNSEL
Albany, New York

DEVIN A RICE, ESQ.
ASSOCIATE COUNSEL
Brooklyn, New York

KHAI H. GIBBS, ESQ.
PROJECT DIRECTOR
Ballston Lake, New York

DIANE SCARINGE
SECRETARY
Albany, New York

DANA E. DEPASS
SECRETARY
Albany, New York

INTRODUCTION TO BOARD MEMBERS AND COUNSEL

Anne Stevason, Esq.

Anne Stevason was appointed Chairperson of the New York State Industrial Board of Appeals in 2007. From 1993 to 2007, Ms. Stevason was employed by the California Division of Labor Standards Enforcement where for approximately four years she held the position of Chief Counsel to the State Labor Commissioner. In her role, Ms. Stevason litigated hundreds of unpaid wage cases, argued numerous appeals and submitted amicus curiae briefs to the California Supreme Court on behalf of the Division.

Ms. Stevason is a native of Brooklyn, New York and received her undergraduate degree from the State University at Albany. Ms. Stevason received her Juris Doctor from the University of California, Berkeley (Boalt Hall) where she was Managing Editor of the Industrial Relations Law Journal. She is a Member of both the New York and California Bars.

J. Christopher Meagher, Esq.

J. Christopher Meagher was appointed as a Member to the Industrial Board of Appeals in 2007. Mr. Meagher has practiced law for thirty-five years, representing employees and unions before state and federal courts and administrative agencies in all areas of labor and employment law. Mr. Meagher spent seven years as a Legal Services lawyer in NYC in the federal Legal Services program and over twenty-five years as counsel to a public sector union. In his varied practice before agencies like the IBA, Mr. Meagher developed expertise in all phases of administrative practice in the employment field, from initial complaint to final determination.

Mr. Meagher is a native of Rochester, New York and received his undergraduate degree from Georgetown University and his Juris Doctor from Fordham University Law School.

Mark S. Perla, Esq.

Mark S. Perla has been a member of the Board since first being appointed in 1997. After completing one term of service, Mr. Perla was reappointed to the Board for a second term in 2002.

Mr. Perla was admitted to the New York State Bar in 1978, after his graduation from the State University of New York at Buffalo School of Law. He served as an Assistant District Attorney in Erie County for ten years, having been named Chief of the Buffalo City Court Bureau, and later, Executive Assistant District Attorney. Mr. Perla later served as an Assistant United States Attorney in the Western District of New York, eventually being named Chief of the Civil Division. In 1995 Mr. Perla was appointed to the Erie County Court bench. After his tenure on the court, Mr. Perla commenced the private practice of law with Perla & Perla, LLP in Buffalo, where he continues to practice as one of the firm's principal attorneys.

Gregory A. Monteleone, Esq.

Gregory A. Monteleone has been a member of the Board since 2001. Mr. Monteleone began his legal career in the Westchester County District Attorney's Office, and then moved on to practice as a trial attorney in the insurance defense field. He is most recently engaged in private practice as a principal in the law firm of Monteleone & Monteleone in Mt. Kisco, New York.

Mr. Monteleone, born in the Bronx, New York, is a long time resident of Westchester County. He received a Bachelor of Arts degree at The Catholic University of America, followed by a Juris Doctor from St. John's University School of Law. He is admitted to practice in New York and Connecticut and is an active member of the New York State Bar Association's Torts Insurance and Compensation Law Section and the Trial Lawyers Section, and the Westchester County Bar Association.

Susan Sullivan-Bisceglia, Esq.

Susan Sullivan-Bisceglia was appointed to the Board in 2005. Ms Sullivan-Bisceglia's legal career includes experience with both large law firms and fortune 500 companies in the areas of aviation, corporate, finance, personal injury, products liability, intellectual property, real estate, mergers and acquisitions, class action and antitrust litigation, and other domestic and international corporate legal issues. She also has extensive experience in employment matters, including employment agreements, hiring and discharge practices, compensation issues and discrimination actions. She is most recently engaged in the private practice of law as a principal in the Sullivan Bisceglia Law Firm, which is based at the Dutchess County Airport, Wappingers Falls, New York.

Ms. Sullivan-Bisceglia received her Juris Doctor from New York Law School and is a member of the New York and Connecticut Bars. A longtime resident of Dutchess County, she is a licensed commercial pilot with both multi-engine and instrument ratings, is published in the area of aviation safety, and has served as a safety counselor for the Federal Aviation Administration.

Sandra Nathan, Esq.

Sandra Nathan, Deputy Counsel to the Board since May 2007, served as both an Administrative Law Judge and litigator during her almost 22 years at the NYS Public Employment Relations Board. Before her career with the State, she had her own practice of law, was a Managing Attorney for a federally funded legal services program, and worked as in-house counsel for the former International Ladies' Garment Workers' Union, AFL-CIO. Her litigation experience includes arguments before the NYS Court of Appeals and federal court trials involving civil rights. Her pro bono experience includes successful litigation before the former Immigration and Naturalization Service to achieve an immigrant's lawful status in the United States.

Ms. Nathan has a Bachelor of Arts and Masters Degrees from the University of Chicago and a Juris Doctor from De Paul University. She was a member of the first Peace Corps group in the Republic of Korea from 1966 - 1968.

Devin Rice, Esq.

Devin A. Rice was appointed to the position of Associate Counsel to the New York State Industrial Board of Appeals in November 2007. Mr. Rice's prior legal experience includes working as an Assistant Attorney General in the Labor Bureau of the New York State Office of Attorney General from August 2001 to November 2007 where he gained experience in all areas of the New York Labor Law; serving as a Regional Attorney for the Office for Civil Rights of the United States Department of Education; and working as an Americorps Attorney at Pine Tree Legal Assistance's Safer Families of Eastern Maine Project.

Mr. Rice earned a Bachelor of Arts in Political Science and International Relations from Macalester College in 1993, and earned a Juris Doctor from the Benjamin N. Cardozo School of Law in 1999.

ABOUT THE INDUSTRIAL BOARD OF APPEALS

INTRODUCTION

The New York State Industrial Board of Appeals was created by the Legislature in 1975 as an independent review and appeals board, within the Department of Labor, replacing the Board of Standards and Appeals. The Board consists of five members, each appointed by the Governor and confirmed by the New York State Senate, at least one of whom must be an attorney. The Governor designates one member of the Board to serve as chairman.

The Board's principal responsibilities and powers are derived from various provisions of the Labor Law, the Business Corporation Law, and the Not-for-Profit Corporation Law. In addition to the broad review powers of the Board, many of the functions, powers and duties of the former Board of Standards and Appeals were transferred to the Industrial Board of Appeals.

JURISDICTION OF THE BOARD

The Board's main statutory duty is to provide an impartial administrative review of the validity and reasonableness of any rule, regulation or order issued by the Commissioner of Labor. In creating this independent, quasi-judicial review board, the Legislature ensured that the many individuals, businesses and unions in this State who are affected by the Labor Law have due process.

The Board's major adjudicative processes involve the following areas:

- Notices of Violation and Compliance orders issued under safety and health standards for public employees;
- Applications for variances from safety and health standards;

- Notices of Violation of safety rules and regulations regarding amusement rides;
- Compliance, penalty and interest orders enforcing various protective provisions of the Labor Law concerning labor standards including, for example, the payment of wages or wage supplements, minimum wage payments, employment of minors, and record keeping requirements;
- Apparel industry registration, and industrial homework, among others; and
- Registration and cancellation proceedings for union labels.

In addition, pursuant to the Business Corporation Law, the Not-for-Profit Corporation Law, and the Limited Liability Company Law, the Board reviews and approves, or disapproves proposed certificates of incorporation, certificates of amendment, certificates of dissolution, and other corporate instruments where the powers and/or purposes of the corporation include labor related activities or where the proposed corporate name may indicate such a purpose.

CONDUCT OF HEARINGS AND BOARD ACTIVITIES

The Board's review and appeal activity is invoked by the filing of a petition or application for review under Labor Law Article 3. No part of the Board's program is initiated by the Board. Once its jurisdiction is invoked, the Board's goals are to afford parties the opportunity to present evidence and be heard at an impartial administrative hearing, and to render a well-reasoned determination in a consistent with established law.

Board hearings and other functions are conducted statewide at various locations and at the Board's Albany and New York City offices. For the convenience of the parties and witnesses, Board hearings are generally held near the site of the employment situation involved.

Each of the five Board members and the Board's two attorneys presides at quasi-judicial hearings. Once a matter is heard, the designated hearing officer submits a complete record of the proceeding to the Board at its regular monthly meeting with a recommended decision. The Board issues a resolution of decision upon a majority vote of the Board members containing findings of fact and law. The Board has statutory authority to affirm, modify or revoke the rule, regulation, or order, or any part thereof, under review.

BOARD OPERATIONS

The Board maintains its principal office in Albany, New York, at the Empire State Plaza. At the beginning of 2007, the Albany office was staffed by the Chairman, Deputy Counsel, Associate Counsel and two secretaries. The Board now also maintains an office in New York City at 75 Varick Street, 7th Floor, New York, New York. Some of the personnel positions that were in Albany were moved to New York City. The Chairman divides her time between New York and Albany. Also, present in New York are the Associate Counsel, and one secretary; Albany's staff has been reduced to the Deputy Counsel and one secretary.

Pursuant to statute, the Board's Albany office is the principle office and the sole office where appeals may be filed, proceedings commenced and FOIL requests filed. The Albany office contains the complete files for all matters before the Board, and all decisions rendered by the Board.

With the shift in staff and the lack of direct flights between Buffalo, where one Board member resides, and Albany, the Board's regular monthly meetings are now held in its New York City office. It is during these monthly meetings that the Board reviews cases, makes decisions and conducts Board business.

BOARD PROCEDURES

A Board case is usually initiated by the filing of a petition for review. If the petition is insufficient in that it fails to attach the Commissioner of Labor's Order or fails to assert the specific reason the Petitioner alleges that the Order is invalid and/or unreasonable, a letter is sent to the Petitioner requesting that it provide additional information by a specified date. If the Petition is sufficient, the Petitioner is sent a letter with a copy of the Board's Rules of Procedure and Practice and a description of the steps in case processing. Once the Petition is approved for processing, a copy is served on the Department of Labor, which must respond with an answer or a motion. Once an answer is filed, the case is assigned to a hearing officer and a pre-hearing telephone conference is set. The pre-hearing conferences are conducted by the Board's legal staff who help the parties limit the issues in dispute, answer questions, explore settlement, and reach a hearing date that is mutually agreeable to the parties and the assigned hearing officer. Although legal staff serve as hearing officers, they are never assigned cases in which they have conducted the pre-hearing conference. The hearing then takes place as scheduled. After the hearing, the hearing officer reviews the transcript of the hearing, the evidence and legal argument and composes a proposed decision which is based exclusively on the record evidence. The recommended decision, the transcript, and the evidence are then reviewed by the legal staff and the Chairman. The record and recommended decision are then presented to the full Board at a regular monthly meeting. After deliberation, the Board votes on whether to adopt the decision. If adopted, each member signs, and the decision is sent to the parties.

When a Motion to Dismiss the Petition is filed, or the parties have agreed that there are no issues of fact and no hearing need be held, however, the Board may order further briefing and/or oral argument before it decides the case.

2007 YEAR IN REVIEW

IMPROVEMENTS AT THE BOARD

I. The Pre-hearing Conference

In keeping with the Board's past efforts to keep the public informed and to expedite case processing, in August 2007 the Board instituted a new practice of holding a telephonic pre-hearing conference for every active case that had not already been set for hearing. Prior to the conference, the parties are sent a letter informing them of the date of the conference and requesting that they be prepared to discuss the merits of their case, the number of witnesses to be called at hearing, and the possibility of settlement. The purposes of the pre-hearing conference is to set a mutually agreeable date for the formal evidentiary hearing; to advise the parties of the procedures involved in the formal hearing; to clarify the legal and factual issues in dispute between the parties; and to answer any questions concerning Board procedures. The pre-hearing conferences are conducted by the Board's Deputy and Associate Counsel. We have found that the pre-hearing conference has been a very effective measure in reaching settlements and helping parties prepare for hearing.

Prior to institution of the pre-hearing conference procedure, many Petitioners, especially individuals without counsel, appeared at hearing not knowing what to expect and not prepared to present evidence or participate in a formal hearing. In the vast majority of cases, the parties had had no prior opportunity to discuss the case or explore the possibility of settlement with Department of Labor attorneys. The pre-hearing procedure has resulted in a greater number of settlements, fewer postponements of hearing due to scheduling conflicts, and expedited, productive hearings since the parties are

now aware of procedures and their respective burdens of proof and are prepared to proceed.

II. Decision Format

The format of the Board's Resolutions of Decision has been changed. The Decisions are now written in a narrative format with an effort to use plain English in order to increase their readability. Each Decision also cites the relevant statute, regulations and case law and thereby educates the general public as to the law. Consistent with the Board's desire to educate the public and as detailed below, the Board has the goal of posting all of its Decisions on its website so that they will be available to the general public. It is anticipated that with increased analysis and citation to existing law, the Board's decisions will assist the public and the parties that appear before the Board in understanding the state of the law, what is expected of them, and what to expect from the Board.

III. Development of System to Post Hearing Decisions and Case Docket on the Website

In 2007, the only way to obtain a copy of a Board decision was to request one, either informally or through the Freedom of Information Law, from the Board's Albany office. The decisions were in hard copy format only and maintained in binders according to the year in which the Petition was filed. In November, the Board initiated a temporary project to update the Board's website so that the Board's current case docket and its decisions are accessible on the internet. This has been a most successful project. Khai H. Gibbs, former Associate Counsel to the Board, has undertaken this project with great success. Each Board decision is summarized and the full decision is accessible through the click of a link. The website will first contain the most recent decisions and then gradually the past decisions will be summarized and posted. The case docket will contain pre-hearing dates and hearing dates and locations.

INTERESTING CASES OF 2007

A summary of some of the interesting cases decided by the Board in 2007 follows:

- **PR 06-089 New York Restaurant Association, Inc. (Jan 17, 2007):**
The Board upheld the Commissioner of Labor's Order accepting the Wage Board's recommendation on minimum wage for food service workers receiving tips. The Petitioner argued that the Order was unfair to the restaurant industry and was untimely. However, the Board found that the Order was lawful because the Commissioner does not have authority to set a minimum wage rate that is less than that authorized by the Legislature. The Board's decision was confirmed in *Matter of Angello v. Commissioner of Labor*, 45 AD3d 1133 (3d Dep't 2007), *lv denied* 2008 NY Lexis 273 (2008).

- **PR 05-076 Donnybrook Sales Inc. (March 28, 2007):**
The Board found that the claimant was an employee rather than an independent contractor because he did not work at his own convenience, worked on a fixed schedule, was paid commissions by the Petitioner and not by third parties, was supervised by the Petitioner, and could be fired by the Petitioner.

- **PR 05-080 Arborscape Inc. (April 27, 2007):**
The Board found that Petitioner violated Labor Law § 193 by withholding employees' last paycheck for violating the company policy that required employees to return company owned uniforms upon termination of employment. A deduction from wages for an infraction of a company policy violates Labor Law § 193.

- **PES 05-004 Brian Colella (Aug 22, 2007):**

A public employee filed a safety and health complaint concerning an asbestos condition which was subsequently investigated and substantiated. The employee was terminated less than one week after filing the complaint, allegedly for insubordination. The employee then filed a complaint with the Department of Labor Division of Public Safety and Health claiming that he was illegally discharged in retaliation for complaining about the asbestos condition. DOL conducted an investigation and determined that the employee was terminated for insubordination and wrongful conduct. However, the only reasonable conclusion to be drawn from the evidence before the Board was that the petitioner was terminated for filing the safety and health complaint in violation of Labor Law § 27-a and that the employer's claim of insubordination was a pretext.

- **PR 05-009 Cayuga Lumber, Inc. (Motion for Reconsideration) (Sept 26, 2007):**

Absent an explicit, mutual agreement between the employer and the employee that a salary provides for an overtime premium for hours worked in excess of 40 in a work week, the regular rate of pay for a nonexempt salaried employee is calculated by dividing the weekly salary by the number of hours worked. The overtime premium is then determined by multiplying the overtime hours by half of the regular rate. This case distinguishes the previous Board decision in *In the Matter of the Petition of David and Laura Guy*, PR 36-99, upheld by the Appellate Division in *McGowan v. Guy*, 304 AD2d 666 (2d Dept 2003).

- **PR 050-082 Donald F. Farr, Jr. (d/b/a Don Farr Contractors Co.) (Oct 24, 2007):**

The Board upheld an Order finding Petitioner construction contractor liable for unpaid wages to two claimants. The claimants were employees, and not independent contractors as urged by the Petitioner, because the evidence demonstrated that the Petitioner had the authority to control both the results of the claimants' construction work and the means they used to achieve those results. Furthermore, because the Petitioner failed to maintain the required records of the claimants' hours worked and wages paid, Petitioner failed to meet his burden under Labor Law § 196-a to prove that the claimants did not work the hours that they had claimed.

- **PR 06-018 Tiferes Academy (t/a Yeshivas Tifersavos High School) (Oct 24, 2007):**

The Board upheld an Order finding Petitioner violated Labor Law § 193, by withholding wages from an employee in an attempt to recover financial losses allegedly due to that employee's wrongful actions.

- **PR 06-024 Frank Bova & App (Al) Joseph (t/a Nina's Ameritalia Restaurant) (Nov 28, 2007):**

The Board upheld an Order finding Petitioners liable for unpaid minimum wages because Petitioners were "employers", as that term is defined by Labor Law § 652, where the Petitioners were in control of the daily operations of the business. This decision contains a discussion of the broad definition of "employer" in the Labor Law.

- **PR 06-049 Mudd (USA) LLC (t/a Mudd Jeans) (Nov 28, 2007):**
The Board upheld an Order requiring Petitioner to register as an apparel manufacturer and imposing a civil penalty for failure to register because the making of prototypes and samples is a stage of apparel production fully encompassed within the meaning of apparel “manufacturer” in Labor Law Article 12-A. This decision is noteworthy because it contains a detailed analysis of the legislative history of Article 12-A.
- **PR 06-058 Sager Spuck Statewide Supply Co., Inc. (Nov 28, 2007):**
The Board upheld an Order finding Petitioner in violation of Labor Law § 193 because payroll deductions for health insurance premiums were not expressly authorized by the employee, i.e. the employee did not have knowledge of the specific deductions and amounts authorized at the time of signing an alleged consent for deductions to be made. A petition for judicial review is pending.

ACTIVITIES IN ARTICLE 78 PROCEEDINGS IN 2007

In *Matter of New York State Restaurant Assn., Inc. v Commissioner of Labor*, 45 AD3d 1133 (3d Dept 2007), *lv denied* 10 NY3d 703 (2008), the Court confirmed the Board’s affirmance of the Commissioner of Labor’s wage order, agreeing that the Commissioner could not set a cash wage for food service workers lower than the cash wage set by the Legislature.

The Article 78 petition in *Matter of Smith v Cayuga Lumber, Inc.*, Albany County Index No. 00103-07, was voluntarily discontinued when, upon a motion for reconsideration by the Commissioner of Labor, the Board revised its formula for computing a salaried employee’s hourly premium rate of pay for overtime work in the absence of an agreement otherwise between the employee and

employer. That formula is to find the employee's regular rate of pay by dividing the weekly salary by the number of hours worked in a week and multiplying that quotient by time and half. That product is then the premium hourly rate of pay for each hour of overtime worked.

In *Matter of Esteban Garcia v Heady*, 46 AD3d 1088 (3d Dept 2007), *lv denied* 2008 N.Y. LEXIS 625 *, the Appellate Division confirmed the Board's determinations including that the employer failed to meet its burden to show that an employee was not entitled to overtime wages because he fell within the "motor carrier exemption" of the Fair Labor Standards Act (29 USC § 213 [b] [1]). Notably, the Court also confirmed the Board's determination that the Department of Labor has inherent authority to investigate wage claims even in the absence of employees filing formal complaints with the Department.

LOOKING AHEAD

The Board will be further advancing its goals of processing cases in a fair and expeditious manner and of keeping the public informed by continuing to update its website so that all decisions are posted and summarized. It is anticipated that a search mechanism will be added so that the case names and summaries can be searched. A new database is being proposed for the website that will permit information to be pulled for research and the automatic updating of the website will continue.

The Board staff is currently noting Rules that should be updated to be made clearer and more responsive to case processing needs. The Board will take the opportunity for Rules revisions to further inform the public as well as to hear public comment and suggestions on the Board's work.

The Board will also be keeping track of the time it takes to process a case from the filing of the Petition to the issuance of the decision to make sure the processing is as expeditious as possible.

2007 ACTIVITY REPORT

2007

Board Meetings Held:	12
New Proceedings Commenced:	147
Section 101 Review Petitions:	108
Section 27-a Public Employee Safety:	14
Section 104 Corporate Documents:	21
Stay Applications:	4
Hearing Sessions Held:	37
New York City:	15
Downstate:	5
Upstate:	9
Capital District:	8
Hearing Sessions Scheduled/Not Held:	37
Hearings Settled/Resolved:	21
Hearings Postponed:	16

Board Resolutions:	100*
Section 101 Review Petitions:	71
Section 27-a Public Employee Safety:	5
Section 104 Corporate Documents:	14
Other:	10

*includes: cases closed/interim/other

FIVE-YEAR STATISTICAL ACTIVITY ANALYSIS

	2003	2004	2005	2006	2007
Board Meetings Held:	20	18	13	13	12
New Proceedings Commenced:	133	111	115	136	147
Section 101 Review Petitions:	100	66	82	98	108
Section 27-a Public Employee Safety:	9	12	4	5	14
Section 104 Corporate Documents:	24	32	27	31	21
Stay Applications:	0	1	2	2	4
Hearing Sessions Held:	50	35	35	47	37
New York City:	20	16	16	25	15
Downstate:	6	9	6	6	5
Upstate:	14	7	9	8	9
Capital District:	10	3	4	8	8
Hearing Sessions Scheduled/Not Held:	88	88	43	47	37
Hearings Settled/Resolved:	42	41	17	13	21
Hearings Postponed:	46	47	26	34	16
Board Resolutions:	176	191	111	132	100
Section 101 Review Petitions:	107	94	70	80	71
Section 27-a Public Employee Safety:	15	11	5	2	5
Section 104 Corporate Documents:	21	32	28	31	14
Other/Cases Closed/Interim:	33	54	8	19	10