

State of Maine

Board of Overseers of the Bar

Grievance Commission

File No. 02-198

BOARD OF OVERSEERS OF THE BAR )

Petitioner )

v. )

**Report of Findings of  
Panel D of The  
Grievance Commission**

DAVID A. SOLEY, ESQ. )

of Portland, Maine )

Me. Bar #6799 )

Respondent )

On December 20, 2004, pursuant to due notice, Panel D of the Grievance Commission conducted a disciplinary hearing open to the public according to Maine Bar Rule 7.1(e)(2), concerning the Respondent, David A. Soley, Esq. This disciplinary proceeding was commenced by the filing of a Petition by the Board of Overseers of the Bar on May 28, 2004.

Present at the hearing were Assistant Bar Counsel Nora Sosnoff representing the Board, and Attorney Peter J. DeTroy representing the Respondent, Attorney David A. Soley.

The Panel heard testimony from the respondent, David A. Soley, pursuant to questioning by Assistant Bar Counsel Sosnoff and Attorney DeTroy. Having heard that testimony and having reviewed the proposed

findings presented by the parties, the Panel makes the following disposition:

### **FINDINGS**

Respondent David A. Soley, of Freeport, County of Cumberland, State of Maine, is and was at all times relevant hereto an attorney duly admitted to and engaged in the practice of law in the State of Maine and subject to the Maine Bar Rules.

Attorney Soley was admitted to the Maine Bar in 1989. He is an attorney with the law firm of Bernstein, Shur, Sawyer & Nelson, having offices in Portland, Maine and elsewhere. Attorney Soley has no record of prior discipline or sanction under the Maine Bar Rules.

On September 24, 2002, Attorney Soley was arrested by the Freeport Police. His arrest followed a heated argument with his wife. During that argument he threw kitchen utensils. Attorney Soley denies that the utensils were aimed at his wife or thrown with intent to injure her, but admits they caused damage to a kitchen appliance near where she was standing.

On March 11, 2003, Attorney Soley plead guilty to two counts of Class D reckless conduct. The conditions of probation associated with Attorney Soley's convictions included: counseling and attending a batterer's intervention education program.

Attorney Soley acknowledges and in his own words states that his “actions were part of a lifestyle and pattern of behavior that was both wrong and unhealthy.” He asserts that “I...take full responsibility for my wrongful behavior.” Further, in his words:

“I recognize that the practice of law, for me, had become an all-consuming passion. I spent most of the last twenty years engrossed in trials, litigation, and all of the intense anxiety emanating from this lifestyle. I limited my sleep, I spent long hours at work, and I lived for the ‘high’ created by the excess stress.... ”

The conduct by Attorney Soley that resulted in his conviction was unworthy of an attorney in violation of M. Bar R. 3.1(a) and conduct in violation of Maine’s Criminal Code, thus constituting a violation of M. Bar R. 3.2(f)(2).

Attorney Soley has abided by the conditions of probation, including attending and completing a 48 - week state certified batterer’s intervention program. Attorney Soley informs the Panel that he is engaged in insight-based counseling and that he has adopted significant lifestyle changes.

Having made findings of misconduct subject to sanction under the Bar Rules, M. Bar R. 7.1(e)(3)(C) directs this Grievance Commission Panel to consider certain factors in determining the appropriate sanction. These factors are:

