THE NORTH CAROLINA STATE BAR

JOURNAL

FALL
2015

A SPECIAL ISSUE DEDICATED TO ACCESS TO JUSTICE

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Safe Child Immigrant Project page 14
Access to Justice for North Carolina's Veterans *page 18*
Providing *Pro Bono* Services in Rural North Carolina *page 29*

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Fall 2015
Volume 20, Number 3

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The Future of Legal Services and Parting Thoughts as the Clock Winds Down

By Ronald L. Gibson

The State Bar is pleased to devote this edition of the Journal to the issue of equal access to justice. The lack of equal access to legal services and to the courts for all citizens has remained a perplexing problem in our democracy. Chief Justice Mark Martin focused the state's legal community on the issue when he convened the Convocation on the Future of the Delivery of Legal Services in North Carolina in May at the Bar Center in Cary and announced the creation of the North Carolina Commission on the Administration of Law and Justice, which will include in its focus the future delivery of legal services in North Carolina.

What is the Role of the State Bar in the Future Delivery of Legal Services?

All lawyers should be very interested in the future delivery of legal services. It is essential to our democracy that we maintain a strong and independent legal profession that can be always be counted on in the judicial process to insure that individual rights are protected in criminal matters and in civil affairs. The officers, staff, and council of the State Bar will gladly be available to assist the Chief Justices' Commission on the Administration Law and Justice. The members of the State Bar Council and the professional State Bar staff have developed significant expertise in the regulation of the legal profession to protect the public. This specialized knowledge has been developed during more than 80 years of credible and effective self-regulation of our profession, with the supervision of the North Carolina Supreme Court, in conjunction with other judicial officers and pursuant to the applicable general statutes. I believe that this expertise is valuable as we consider how to make legal services more accessible to the public and how to enhance the administration of justice.

Given that the State Bar is charged by law with protection of the public, I am compelled to emphasize two points that in my view are too often lost in the debate among scholars, lawyers, business entities, and others seeking to advance their concepts or business models as the ideal framework for the future delivery of legal services. No one can seriously disagree with the basic proposition that we need to develop faster and less costly access to legal services. But the mission is not accomplished with just lower cost and easier access.

Chief Justice Martin's article (see page 10) appropriately references the quote of US Supreme Court Justice Lewis Powell on equal justice under law being "perhaps the most inspiring ideal of our society." The quote ends with it being "fundamental that justice should be the same, in substance and availability, without regard to economic status." ***Ensuring the quality of and accountability for legal services must be an integral part of the future delivery of legal services.*** We must insist that legal service providers are qualified to provide the services. We must also insist that all legal services be provided consistent with the established standard of care, and that there be real and not illusory recourses when a member of the public is harmed by the services rendered. There are good reasons why lawyers cannot limit their liability to the fee paid and/or require that aggrieved clients litigate their claims in a forum hundreds—if not thousands—of miles away.

CONTINUED ON PAGE 41

View from the Bench: Commitment to Equal Access for All

Justice Cheri Beasley, North Carolina Supreme Court

As members of the judiciary, we have pledged to protect the sanctity of the rule of law. Inherent in our commitment is fairness, impartiality, and accessibility to our courts. For true access, courts must be open, those whose rights have been infringed must have access to a tribunal, and those who are indigent must have their rights protected. Equal access must provide that all litigants are informed.

Many families seeking to protect their basic rights and values are *pro se* litigants. The greatest way to ensure that all people's legal rights are protected is by legal representation or user-friendly court systems and processes. Access is easier in larger counties in the state, but most of North Carolina is rural. In rural communities there are fewer lawyers, often no broadband internet to access information online, and no nearby legal aid office.

Victims of domestic violence, those seeking child custody, those facing housing foreclosure, or veterans facing a myriad of legal issues do not have the means or tools to navigate the court system and protect their legal rights without assistance. Our state must make a commitment to funding programs that offer such assistance. It is also important that we change our perception of the face of poverty and of the value of impoverished families.

Promises, Promises

By L. Thomas Lunsford II

I have a confession to make. Sometimes I promise more than I can deliver. Like when I told the Publications Committee back in 1997 that I could be counted upon to write an "interesting" column for the *Journal* on an ongoing basis. And I fully intended to do so, right up until I exhausted all the good topics a couple of years later and was consequently forced to write about reapportionment of the State Bar Council. That's probably when I jumped the shark. After that there was no point in trying to sparkle. The subjects were just too grim. And so it's been a long downhill slog for you and me through topics like *pro hac vice* registration, multi-disciplinary practice, and the judicial surcharge. Lord knows I've tried my best to make them come alive but, really, what can you say about the State Bar's regulatory program that hasn't already been said better in innumerable Presidents' Messages? And yet I persevere.

While I have done most of my professional overpromising as an employee of the North Carolina State Bar, my most infamous vow was made prior to joining the staff. It was during my interview with the State Bar's Personnel Committee that I felt moved to guarantee that I would, if given the job as "junior trial counsel," put an effective end to lawyer misconduct in North Carolina within six months. Before I could pry my tongue out of my cheek and for reasons that have never been adequately explained, I was immediately offered the job. Perhaps the committee was beguiled by my unwarranted self-confidence. Maybe they were charmed by my inexperience and ineptitude. Perhaps they understood that my penchant for outlandishness might one day be turned to good use in the *Journal*. Or, maybe they just thought it would be fun to call my bluff. In any event, I was soon busily engaged in trying to make good on my promise.

Well, you know the rest of the story. Rather than quelling the incidence of misbehavior among lawyers in North Carolina, my employment as a disciplinary lawyer coincided with a period of unprecedented deviance from professional norms. From the time I started work as a disciplinary lawyer until I was fully bureaucratized[1] seven years later, the number of consumer complaints filed with the State Bar each year increased dramatically, initiating what some scholars have described as a "Golden Age of Grievances." Of course, there is no hard evidence that my participation as a prosecutor actually encouraged bad acts among our fellow licensees. It may have just been a coincidence. Still, the phenomenon was jarringly at odds with my boast, and one wonders, even to this day, whether my arrogance might have engendered some extremely negative disciplinary karma.

Be that as it may, it is apparent that my breach of promise has resonance in the here and now—and that is the real subject of my essay. Had I been as good as my word, the State Bar wouldn't need its current staff of 12 trial lawyers, and the 20 volunteer members of the Disciplinary Hearing Commission (DHC) would be able to spend a lot more time with their law partners and their families. As it is, all of those worthy individuals remain fully occupied in the investigation and litigation of a large volume of serious disciplinary cases.

To understand something of the magnitude of that undertaking—and the consequences of my failure to stamp out lawyer misconduct when I had the chance—I thought it might be "interesting" to take a cursory look at the cases that are pending in the DHC at the moment. I don't intend to assess the merits of the cases, although I freely acknowledge a rooting interest in the outcomes. I just thought you might be interested in knowing the sort of people involved and the nature of the charges against them.

As of July 15, 2015, there were 30 cases pending in the DHC against 30 different lawyers. One lawyer is the respondent in two distinct cases, and there are two co-defendants in one case. Of the respondents, six are believed to be female, mainly on account of their stereotypical names and the use of feminine pronouns by the complaining parties. If this number is accurate and my math is correct, then it appears that about 17% of our current respondents are women. This percentage is, we believe, much smaller than the percentage of the State Bar's membership that is female. Demographic information collected by the State Bar suggests that women comprise about 43% of the entire bar.[2] Thus, if our "snapshot in time" is at all representative, we might well suppose that men are disproportionately likely to be tried for professional misconduct. Of course, this is a very small sample and quite possibly unrepresentative. We could, if we wanted, do a bit of historical research and readily ascertain the validity of that hypothesis. But isn't it more satisfying to speculate and shoot from the hip?

Only two of the respondents are believed to be African-American. Proportionately, that appears to be consistent with the results of our demographic survey which suggest that about 9% of our membership can be so identified. It is at odds, I'm happy to say, with any suggestion that the State Bar is race-conscious or discriminatory in its application of professional discipline. Not only is that notion belied by this rather slim data set, it is also contradicted by the fact that until they actually meet in the course of the prosecution, State Bar prosecutors usually have no information about a defendant's race.

The common wisdom is that most lawyers who get in trouble practice by themselves or in very small firms. That supposition is strongly

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supported by the sampling we have done for the purposes of this article. Of the 30 respondents in our pending cases, 25 of them appear to have been practicing in such situations at the time of the alleged misconduct. Only one is known to have been working for a large law firm. Three respondents were working for nonprofit organizations engaged in the provision of legal services. One respondent was and is a sitting superior court judge. Why sole practitioners and small firm lawyers seem so much more likely to find themselves answering charges before the Disciplinary Hearing Commission than their counterparts in "Big Law," government, and business is a hard question to answer and one that is quite beyond the scope of this essay. Suffice it to say that the pressures on such lawyers are great.

Even more interesting than demographic information, in my view, is the wide variety of misconduct alleged. Our general counsel, Katherine Jean, produces a report each quarter that summarizes the charges in cases pending before the DHC. A quick reading of that document confirms what many of us have long suspected. The surest way to bring yourself to the attention of the Disciplinary Hearing Commission is to be an irresponsible or light-fingered steward of entrusted funds. Of the 30 cases on the report, ten of them allege serious trust accounting deficiencies, and seven allege misappropriation. Nine of the respondent lawyers in those matters have already been enjoined from handling entrusted funds on the strength of persuasive documentary evidence, chiefly in the form of bank records. Trust account theft really is a loser's game. Nothing is more likely to be complained about, nothing is more susceptible of proof (although making sense of an irresponsibly maintained trust account can be a herculean task), and nothing is more likely to get you disbarred.

Unfortunately, it appears that dishonest conduct is not just a feature of money cases. Nonfiscal chicane is alleged in fully one-third of the pending cases. If the State Bar's pleadings are borne out, the accused lawyers have falsified, among other things, HUD-1 statements, verifications, affidavits, jurats, accountings, and responses to the Grievance Committee. There are also charges involving the surreptitious gathering of evidence and misrepresentation to the court.

If dishonesty isn't your cup of tea, you might be interested in knowing that dereliction is still a going concern. Eight of the pending cases allege neglect, five charge failure to communicate with the client, and one is predicated upon the respondent's averred refusal to return the client's file. And let us not suppose that it is only in respect to clients that there have been actionable failures to be diligent. In three of the cases the respondents seem to have failed themselves by refusing to respond to inquiries from the State Bar's Grievance Committee. If proven, that can be the basis for the imposition of discipline even if the grievance initiating the inquiry proves to be entirely without merit.

Rounding out the collection are single cases wherein an assortment of professional failings are asserted. One respondent is alleged to have had sex with his client, another appears to have assisted a nonlawyer in the unauthorized practice of law, another is said to have charged an excessive fee, and there's also a case in which a lawyer is accused of misusing his client's confidential information. And, if that weren't enough, one respondent is liable to be disciplined for his conviction of a sexual offense against a child.

Let me emphasize at this point that, unless a respondent has already been convicted of a

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crime showing professional unfitness or admits the truth of the allegations in a responsive pleading (or defaults), he or she is deemed innocent of the alleged misconduct. In virtually all cases then, the State Bar must prove its allegations by clear, cogent, and convincing evidence. It's a heavy burden that is occasionally unmet for one reason or another. The best way of insuring that the State Bar is properly put to its proof and that the most just result is obtained through the disciplinary process is for the respondent to be represented by competent counsel. It's hard to imagine a forum in which the objectivity and judgment of a seasoned lawyer would be more useful to the accused. And yet, the incidence of *pro se* representation before the DHC is about as commonplace as in domestic court. At the moment, most—16 of 30—of the respondents in our pending cases are representing themselves. Those numbers are fluid. Many of the cases are in very early stages and there is still time to make arrangements. Undoubtedly several people who are now unrepresented will ultimately engage counsel. But, experience tells us that a very large percentage will go it alone. They will, as their own advocates, almost certainly misunderstand the process, misapprehend their own best interests, aggravate the other participants, and prolong the proceedings. Unfortunately, many will have fools for clients.

The report I'm referencing also tells us where the respondent lawyers are from. On your behalf I have studied this information very carefully and have gone to the trouble of plotting the various cities of origin on a map. I assumed that such a graphic display would yield insights heretofore unrealized. Alas, there appears to be little to be learned from the exercise. Our 30 cases had their genesis in 20 different cities and towns dispersed throughout the state. There appears to be no great concentration of mischief in the metropolitan areas. There appears to be no bias toward any geographic region. The city spawning the most cases (five) is Durham. It is difficult to know what conclusion to draw from this choice fact, although as a Tar Heel I am inclined to suspect Duke University. Asheville was the runner-up with three cases. While no other locale had more than two, I would note that Guilford County also produced a trifecta—one from Greensboro, one from High Point, and one from Jamestown.

As is often the case, one is apt to find greater meaning from the absence of example than from its presence. I refer to the fact that among the cities represented by the 30 respondents, there is no sign of either Burlington—my hometown—or Raleigh, where I have lived for the past 26 years. These circumstances are suggestive of at least two conclusions. First, that there is no longer any lawyer misconduct in those fine communities. And second, that I somehow deserve credit for stamping it out, just as I promised. ■

L. Thomas Lunsford II is the executive director of the North Carolina State Bar.

Endnotes

1. Promoted.
2. The State Bar collects demographic information, including gender and ethnic identification, on a voluntary basis from the membership. It is maintained in gross for statistical purposes only. It is not associated with anyone's personal record in the membership database. That being the case, no one, including members of our disciplinary staff, can determine a respondent's gender or ethnicity by checking the computer.

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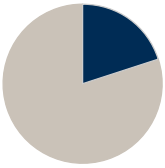
North Carolina State Bar *Journal* Equal Access to Justice Edition: Introductory Remarks

By Chief Justice Mark D. Martin

The issue of access to justice is very important to our state's judiciary, members of the bar, and the general public. Each year tens of thousands of North Carolinians participate in the judicial system without an attorney. Many of their cases involve basic human needs and interests like shelter, sustenance, safety, health, or family. There is a critical need to bridge this justice gap, and as chair of the North Carolina Equal Access to Justice Commission, I am honored to provide introductory remarks for this unique edition of the State Bar *Journal* focusing on access to justice.

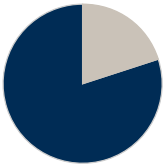
In 2005, upon the recommendation of Chief Justice I. Beverly Lake Jr., the Supreme Court of North Carolina created the North Carolina Equal Access to Justice Commission. After Chief Justice Lake's retirement in early 2006, Chief Justice Sarah Parker oversaw the task of organizing the commission, which includes judges, practicing attorneys, legal aid providers, leaders from the legal academy, and members of the general public. The commission is charged with fostering the delivery of legal services to North Carolinians of low income and modest means within the state's civil justice system. Its efforts include facilitating coordination among the state's various legal aid providers and raising awareness about issues affecting access to justice.

Among the most pressing challenges facing our civil justice system is the delivery of legal services to those who are unable to afford legal representation. Unlike in criminal cases, there is no constitutional right to court-appointed counsel for indigent parties in civil cases. Legal aid programs, therefore, play a vital role in these civil cases by providing free legal services to individuals who otherwise would not be able to afford an attorney. North Carolina's network of legal aid providers includes Legal Aid of North Carolina, Legal Services of Southern Piedmont, Pisgah Legal Services, and Disability Rights NC, all of which are dedicated to addressing unmet legal needs. Legal aid providers carefully screen cases, and more than 75% of accepted cases are settled out of court. When legal aid does proceed to trial, it wins 90% of its cases. In 2013 the Equal Access to Justice Commission issued a study examining the economic impact of legal aid services in North Carolina. This



23% qualify

2.2 million North Carolinians, over 23% of the population, qualify for legal aid.



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80% of the civil legal needs of poor people are unmet.

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study identified over $48 million in economic benefit to the state arising out of legal aid services in 2012.

Despite legal aid's best efforts, however, the reality is that the need for legal services among those of low and moderate incomes outpaces the capacity of our state's legal aid providers. In North Carolina, more than 2.2 million people have incomes that fall below the poverty line. Statewide, there is only one legal aid attorney for every 13,170 low-income people. By comparison, there is one private attorney for every 562 North Carolinians. Furthermore, government funding for legal aid declined following the onset of the Great Recession. Since 2008, both federal and state funding have been reduced by approximately one-third. Grants to legal aid through another significant source of funding, Interest on Lawyer Trust Accounts, commonly known as "IOLTA," have decreased more than 50%. As a result, an estimated 80% of indigent legal needs in our state go unmet.

The rule of law is the foundation of American jurisprudence and is essential to the preservation of our civil society. In the words of former United States Supreme Court Justice Lewis F. Powell Jr., "Equal justice under law is not merely a caption on the façade of the Supreme Court building, it is perhaps the most inspiring ideal of our society....[I]t is fundamental that justice should be the same, in substance and availability, without regard to economic status." Accordingly, a commitment to promoting access to justice should be a priority for all North Carolinians.

Members of the bench and bar should be particularly mindful of the importance of access to justice. As guardians of the rule of law, attorneys and judges have a high calling. Practicing law is a privilege, not a right, and we must remember our professional duty to serve others and promote the rule of law. To this end, the Preamble to the North Carolina Rules of Professional Conduct reminds us that:

> As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice, and the quality of service rendered by the legal profession....A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel.

Our profession must therefore continue its efforts to serve unmet legal needs and promote access to justice in our state.

Legal aid provides invaluable assistance to some of our state's most vulnerable citizens. Since 2008, however, the need for legal aid has increased by 30%. Attorneys and judges must work together in order to bridge our state's growing access to justice gap. As chair of the Equal Access to Justice Commission, I am grateful to North Carolina lawyers and judges for their continued commitment to increasing access to justice, and to the North Carolina State Bar for devoting an entire *Journal* to a review of this important topic. I am confident that, working together, we can make a positive difference. ■

Mark D. Martin is the chief justice of the North Carolina Supreme Court.

Professionalism: Rule 6.1, Voluntary *Pro Bono* Service

By Melvin F. Wright Jr.

Much of what we consider "legal professionalism" is not mandatory or required. Good character, civility, respect, and humility are professionalism values we encourage all lawyers to develop and make a part of their lives. Lawyers who demonstrate these core values are not required or regulated to do so by the North Carolina State Bar; they do it because it is the right thing. Rendering 50 hours of voluntary *pro bono* service to low-income people who cannot afford to pay for legal services is also the right thing.

In 1969 the American Bar Association (ABA) adopted the Code of Professional Responsibility, which addressed for the first time the responsibility of the lawyer to engage in *pro bono* work in Ethical Consideration 2-25. It states, among other things: "Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged."

In 1983 the ABA adopted Model Rule 6.1, which states that a lawyer "should render public interest legal service." It specified certain ways a lawyer can discharge the responsibility: "by service in activities for improving the law, the legal system, or the legal profession, and by financial support for organizations that provide legal services to persons of limited means."

In 2010 the North Carolina State Bar adopted Rule 6.1, *Voluntary* Pro Bono *Public Service,* which is very similar to the ABA version. Both rules are aspirational and encourage lawyers to render at least 50 hours of *pro bono* legal services per year.

According to the North Carolina Equal Access to Justice Commission website, in North Carolina nearly 740,000 households—which include working families, the elderly, and disabled—lack affordable and safe housing. Every nine seconds a woman is abused, and domestic violence is the primary reason women and children become homeless in the United States. The average annual household income for legal services clients is $15,000. More than 2.2 million people qualify for legal aid, which is over 23% of the population. For these citizens, there is only one legal aid attorney for every 13,170 eligible for services. In comparison, there is one private attorney for every 562 people in the state.

Please continue to comply with the aspirational goal of 50 hours of *pro bono* service as set forth in Rule 6.1 of the North Carolina Rules of Professional Responsibility. Your 50 hours will benefit those in need, it will make our profession better, and it will enhance the quality of your life as a lawyer. ■

Melvin F. Wright is the executive director of the North Carolina Chief Justice's Commission on Professionalism.

Rule 6.1 states, "A lawyer should aspire to render at least 50 hours of *pro bono publico* legal services per year...In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means."

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Safe Child Immigrant Project

William P. Farthing Jr.

When thousands of unaccompanied immigrant children arrived in North Carolina last year with a critical and immediate need for legal assistance, Legal Services of Southern Piedmont was supported by local lawyer associations, firms, private attorneys, foundations, and community members to create the Safe Child Immigrant Project to assist these children who lacked the resources to defend themselves in court and access safety from violence and abuse.

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Last summer the US media exploded with the news that tens of thousands of unaccompanied Central American children, mainly from El Salvador, Guatemala, and Honduras, were arriving at the US-Mexico border. The media classified this influx as everything from a "flood" to an "invasion," to, finally, President Obama's "humanitarian crisis." What everyone agreed upon, however, was that the "crisis" was, in terms of simple numbers, unprecedented, and that something had to be done.

To understand just how "unprecedented" the numbers were, we can look to the number of Central American children who arrived before 2014. In 2009 the total number of unaccompanied children from El Salvador, Guatemala, and Honduras—together known as the "Northern Triangle"— arriving at the US border was about 3,000. The number began to spike in 2012 when about 10,000 children were apprehended at the border. Then, in 2014, the number rose steeply to nearly 52,000 children—a 500% increase—with 2015 on track to be dramatically high as well.

The drastic increase raised the question: what is motivating these children to flee their homes and countries to come to the US? The reality emerged as these children were processed in shelters and their stories were heard: brutal abuse, violence, and poverty had driven them from their homes.

The Most Dangerous Gangs in the World

In addition to being amongst the poorest countries in Latin America, with 30% (Honduras), 26% (Guatemala), and 17% (El Salvador) of their populations surviving on less than $2 a day, Northern Triangle countries also have some of the highest murder rates in the world. Honduras, with a murder rate in 2014 of 90.4/100,000 people, tops the list, with Guatemala and El Salvador at fourth and fifth. For comparison, Detroit had a murder rate of 54.6/100,000 people in 2013—a number that itself is ten times the national US average. The rates of femicide and murders of youth are even greater in high gang activity areas in the Northern Triangle than the average murder rate.

In the past decade, violence has gotten increasingly worse in the Northern Triangle, due in large part to gangs that have increased in size, power, and violence. *Mara Salvatrucha*, also known as MS-13, and MS-18 are two of the most powerful and violent gangs, and they are present in all three countries. MS-13 and MS-18, known together as "*las maras*," are now bitter rivals and in a constant struggle—some call it a war—for power and territory.

Maras reign by fear, and those in opposition are beaten, murdered, or "disappeared." They make money by engaging in extortion,

illegal drug trade, human trafficking, and more. Police in the Northern Triangle are often ineffective in stopping them and, in many cases, have been known to work alongside the gangs or accept bribes in exchange for willfully turning a blind eye to gang activity. Even when there is no corruption, gangs often threaten the lives of police and their families if they prosecute.

Children can be especially vulnerable to *las maras* for many reasons, including their age, accessibility, gender, and lack of an adequate caretaker. Boys in their early teens are particularly susceptible to gang recruitment; any who attempt to resist are threatened or killed simply for refusing to join. For example, "Edgar" is a 16-year-old Honduran boy who now lives in NC. At age ten, his father died, and Edgar quit school to work and support his family. At 15, *las maras* began to recruit him. When he resisted, they beat him and gave him the choice to leave his home or be killed. Edgar chose to leave and attempt the journey to the US.

But the danger Edgar faced did not end when he escaped the gang's threats. The journey to the US is incredibly dangerous. Migrants have to cross several countries and are particularly exposed to robbery, rape, kidnapping, and inadequate food and water. Edgar was kidnapped in Mexico, starved and beaten for ten days, until a family friend paid the $3,000 ransom. Now Edgar lives in NC with a cousin and is applying for asylum to gain status and remain in this country lawfully.

Edgar's story, unfortunately, is not unique. It is a story shared by many children arriving in the US. Young girls from the Northern Triangle also face issues with gangs. Girls are targeted to be "girlfriends" of gang members, known as "*mareros*." When a *marero* chooses a girl he likes, her options are to acquiesce or try to resist and be confronted with rape and murder.

"Maria" is 15 and from El Salvador. Last year, *mareros* told her she was starting to "look ready" and she was going to be theirs. One *marero* in particular stalked her and said she was "his." Maria knew other girls who had resisted in the past and were violently raped or beaten. She chose to flee to the US where her mother had fled years before after her father was murdered by a gang.

For Edgar, Maria, and so many others, the only option to stay alive without becoming involved with gangs is to flee to the US.

Welcome to America

While resistance to gangs may be the driving reason for fleeing, many children choose to leave because of a complex combination of issues they face in their home country. Often a child who is targeted by gangs also lives in poverty, and many face other issues at home, like abandonment and abuse. But whatever their reasons, children from the Northern Triangle fled their home countries in droves last summer. After undertaking a harrowing journey, they arrived at the US-Mexico border to an existing structure that was woefully unprepared to handle them.

Upon arrival the children were—and continue to be—sent to shelters operated by the Office of Refugee Resettlement (ORR). Because they do not cross the border with a parent or guardian, they are labeled as Unaccompanied Alien Children (UACs) and forced to remain in ORR custody until ORR locates a family member willing to take custody of them. Once a family member volunteers to care for the child, the child is sent to that person to await the immigration court process. This resulted in more than 2,000 children arriving in North Carolina last year. These children were then expected to go to immigration court, where a process they did not understand in a language they did not speak was set in motion to return them to the country from which they had fled.

Addressing the Need

Children arriving in North and South Carolina were luckier than most. Charlotte-area nonprofit Legal Services of Southern Piedmont (LSSP) already had a program in place called the Immigration Assistance Project (IAP) that began in 2010 at the Charlotte Immigration Court, which serves both states, to help orient people to the court process. Through this project, a bilingual LSSP employee educates and reassures first-time defendants by explaining what is going to happen in court, answering questions and helping people navigate the court by filling out basic forms. As part of IAP, private attorneys volunteer their time to provide basic screenings for relief, and give information to people who are present in court for the first time.

While programs like IAP provide basic legal orientation and information, these children have no legal right to court-appointed counsel. They are expected to somehow hire an attorney or represent themselves if they seek to pursue legal remedies. Without ade-

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quate representation, children who may have had a viable form of relief could be deported without the chance to fairly defend their case. LSSP, already helping so many immigrants through IAP, committed to change that.

In October 2014, with the help of the American Immigration Lawyer's Association (AILA)'s North and South Carolina chapter, LSSP created a project pairing *pro bono* attorneys with children who are eligible for a particular type of relief called Special Immigrant Juvenile Status (SIJS) that provides permanent residency to certain children who have been abused, abandoned, or neglected by one or both parents. To date, *pro bono* representation has been provided to more than 120 children, children who otherwise may not have been able to afford or access representation to help them remain in the US.

In addition to the *pro bono* project, LSSP, with the help of local funders, including Sisters of Mercy Foundation, Hispanics in Philanthropy, Oak Foundation, Foundation for the Carolinas, and the Leon Levine Foundation, hired three additional staff to serve as Equal Justice Works justice AmeriCorps (jAC) attorneys to represent unaccompanied minors in NC under the age of 16. The jAC program was created by the Department of Justice and AmeriCorps with the goal to provide representation to as many unaccompanied children as possible, to show the difference having legal representation can make in a child's case. Current statistics show that nine of out ten children without representation are deported, while almost half of children with representation find relief.

These efforts, in addition to other service areas within LSSP that are dedicated to protecting immigrant children, come together to create the Safe Child Immigrant Project (SCIP).Through SCIP, hundreds of children in North Carolina have received legal orientation and information they would have otherwise not had access to. Furthermore, nearly 200 children have received legal representation and assistance navigating the incredibly complicated system that is the US immigration system.

Essential to LSSP's ability to respond and create these programs was our state's legal community, which saw the urgent need for legal help for these children and responded. SCIP would not be possible without the committed work of the *pro bono* attorneys who took on these worthwhile cases, or without the generous local funders who helped LSSP hire the jAC attorneys to provide information and representation to children throughout the state, regardless of their families' ability to pay. Our community of committed individuals, foundations, and organization continue to work to uphold justice to protect our most vulnerable children. ■

William P. Farthing Jr. is former managing partner and of counsel at Parker Poe in Charlotte. Bill is a member of the North Carolina Equal Access to Justice Commission and president of the Board of Directors of Legal Services of Southern Piedmont.

Access to Justice Partners: Equal Justice Alliance

Mary Irvine, Equal Justice Alliance Director and Access to Justice Coordinator, NC IOLTA and NC Equal Access to Justice Commission

The mission of the Equal Justice Alliance is to provide central coordination of a sustained, comprehensive, integrated, statewide system to provide the most effective legal services to people in poverty in North Carolina.

Alliance membership includes the following civil legal aid provider organizations:

• Disability Rights North Carolina is a statewide protection and advocacy agency working to protect the legal rights of children and adults living with disabilities through individual and systems advocacy—disabilityrightsnc.org.

• Land Loss Prevention Project provides free legal assistance to landowners, homeowners, farmers, and farm-related businesses statewide in civil matters that affect the use and retention of their homes and land—landloss.org.

• Legal Aid of North Carolina is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove barriers to economic opportunity—legalaidnc.org.

• Legal Services of Southern Piedmont provides a wide range of civil legal assistance to eligible low-income persons in the Charlotte metropolitan area and west-central North Carolina to ensure a full measure of justice for those in need—lssp.org.

• North Carolina Justice Center is a nonprofit advocacy program working to end poverty in North Carolina by ensuring that low-income, working poor, and minority individuals and communities have resources and services they need to move from poverty to economic security—ncjustice.org.

• North Carolina Prisoner Legal Services, Inc. is a statewide nonprofit legal services firm working to ensure humane conditions of confinement in prisons and jails, and to challenge illegal convictions and sentences—ncpls.org.

• Pisgah Legal Services seeks to pursue justice by providing legal assistance and advocacy to help low-income people in Western North Carolina meet their basic needs and improve their lives—pisgahlegal.org.

Other related organizations that assist in the provision of legal services to low-income persons in North Carolina and participate in the alliance include: the Public Service and *Pro Bono* Activities Department of the North Carolina Bar Association, the North Carolina IOLTA program of the North Carolina State Bar, and the North Carolina Legal Education Assistance Foundation.

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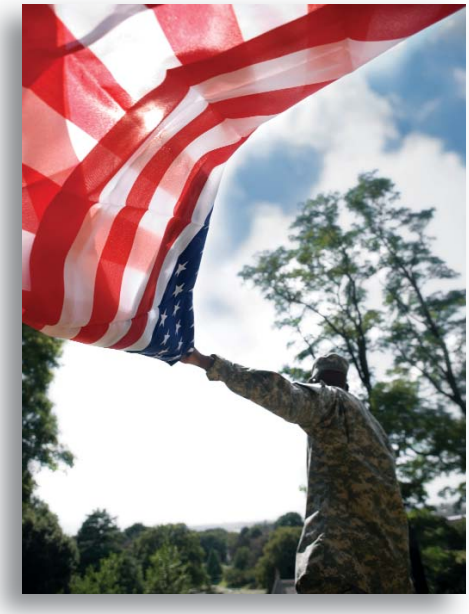
Access to Justice for North Carolina's Veterans, Service Members, and Their Families

By Charlotte Stewart and Kirk Warner

In the past few years, there have been exciting developments in serving the legal needs of North Carolina's veterans. With the third-highest population of active-duty military in the nation, as well as almost 800,000 veterans in the state,[1] North Carolina's legal community must be equipped to address the needs of this specific client population. While nonprofit legal aid providers such as Legal Services of Southern Piedmont, Pisgah Legal Services, and Legal Aid of North Carolina have expanded legal services available to veterans in recent years, engaging private attorneys in *pro bono* and public service work is critical to ensuring that no veteran's legal needs go unmet in North Carolina.



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There are three principle groups working to increase private attorney participation in this worthy effort: the State Bar's Standing Committee on Legal Assistance to Military Personnel (LAMP), the North Carolina Veterans *Pro Bono* Network (VPBN), and the North Carolina Bar Association's Military and Veterans Affairs Committee (MVAC). LAMP's activities primarily focus on the legal needs of active duty personnel, whereas the VPBN is primarily (though not entirely) concerned with veterans. MVAC was designed from the beginning to encompass both. Together, these groups comprise a formidable network of attorneys and advocates making a difference for our military and veteran population.

The State Bar's Standing Committee on Legal Assistance to Military Personnel (LAMP)

LAMP is a standing committee of the NC State Bar, formed to support military legal assistance attorneys assigned within North Carolina who are typically unfamiliar with state law practice.[2] LAMP connects these professionals rendering services to active duty personnel and their families with experienced North Carolina practitioners who can provide advice.

Currently chaired by Lonnie Player of Fayetteville, LAMP meets quarterly to share information about legal issues facing military personnel. Members report on developments in legislation and case law affecting members of the military, particularly in the areas of employment law, family law, and consumer protection. Reports by Mike Archer, legal assistance director at Camp Lejeune, often feature high-profile takedowns of entities engaged in predatory lending and other consumer fraud perpetrated against service

members and their families. Mark Sullivan of Sullivan & Tanner, PA, provides in-depth updates on legal developments that impact military families in matters such as pension division, child custody, and civil procedure. The Legal Assistance Office chiefs and representatives from the major military commands located in the state provide critical input to the LAMP committee.

For years, LAMP has put on an annual CLE to train attorneys in various aspects of North Carolina law affecting active duty personnel and their families. This training makes expanded representation in state court possible by JAGs and other military legal assistance personnel who would otherwise have inadequate familiarity with state practice. In 2015, LAMP partnered with MVAC to put on this training in partnership with the North Carolina Bar Association. An NCBA Foundation Endowment Grant enabled active and retired military personnel to receive this training at no cost.

LAMP publications such as "Take-1" handouts and co-counsel briefs provide invaluable guidance for attorneys and the public. These are available at nclamp.gov.

Access to Justice Partners: Wake Forest University School of Law's Veterans Legal Clinic

By Kate Helin, Class of 2015, Wake Forest University School of Law

In the fall of 2015, third-year law students will be enrolled in the Wake Forest Veterans Legal Clinic. This first-ever class of student clinicians is the culmination of a student-led effort to create a Veterans Legal Clinic. In the fall of 2013, a group of students noted the limited legal services available to active-duty service members, reservists, and veterans. The students proposed a business plan for establishing a permanent Veterans Legal Clinic. In the spring of 2015, as part of the Community Law and Business Clinic, students began offering legal services to veterans throughout North Carolina. The Veterans Legal Clinic provides the following services:

- discharge upgrades,
- employment assistance under the Uniformed Servicemembers Employment and Reemployment Rights Act,
- resolution of landlord and tenant issues,
- combating of predatory lending practices, and
- expungements.

These services are all provided at no cost to the veteran.

The NC Veterans *Pro Bono* Network

In 2012, representatives from the National Legal Aid & Defender Association[3] and the National Veterans Legal Services Program[4] approached stakeholders in North Carolina to develop a collaborative model of

addressing the unmet legal needs of veterans. The result is the North Carolina Veterans *Pro Bono* Network, a joint effort of the NCBA and NC Equal Access to Justice Commission.

In fall 2014 these organizations hired the VPBN's first coordinator, Charlotte Stewart of Chapel Hill, to initiate pilot projects and establish VPBN presence statewide. Network initiatives center on two main strategies: increasing the involvement of private attorneys and law students in *pro bono* projects serving veterans, and implementing solutions that utilize existing resources to meet specific needs in North Carolina communities.

One of the first projects of the VPBN was the development of an online clearinghouse of veterans-related information, with specific North Carolina legal information and resources for both veterans and practitioners, made possible through a grant from the American Bar Association. The website ncvetslegal.org serves as an important communication hub and as a portal for recruitment and placement of *pro bono* attorneys who want to serve veterans.

Central to the VPBN's founding was the need to address a backlog of claims for VA disability and compensation. Continued involvement with LAMP and MVAC has enabled the network to engage additional stakeholders critical to realizing this goal, including the NC Division of Veterans Affairs, the Winston-Salem VA Regional Office, and the North Carolina VFW. Ultimately, the coordinator will work to match *pro bono* attorneys[5] with individuals seeking legal help, and to track case progress and outcomes.

Another early goal of the VPBN is to ensure that legal services are available in some form at every Stand Down[6] event in the state.[7] Local Stand Down steering committees are ideal initial stakeholders to approach when seeking to serve veterans in a specific community. To date, access to civil legal services at Stand Downs has been provided by staff attorneys from legal services providers, members of the NC VetsCorps,[8] and students from law school clinics and *pro bono* projects.

Access to Justice Partners: NC LEAF Helps Lawyers Pursue Careers in Public Service

North Carolina Legal Education Assistance Foundation (NC LEAF) provides loan repayment assistance for eligible attorneys in public service, including attorneys that work for nonprofit providers of civil legal aid. Ryan Stage, staff attorney at Safe Alliance in Charlotte who graduated from Charlotte School of Law in 2012, shares his story.

My first day of law school I had no idea what type of law I wanted to practice. I was interested in the law and I wanted to help people. It was my second semester of my 1L year when someone from United Family Services—now Safe Alliance—came to speak on campus about volunteering for their agency and assisting victims of domestic violence. As the semester was drawing to a close, I shadowed the supervising attorney in court. It was not a specific case that particularly resonated so strongly with me, but the total experience of that day that I will never forget.

I met with the attorney outside of the courtroom and we spoke to her client. She was nervous and so grateful we were there to help—not just to represent her in attempting to get a protective order from her ex-boyfriend, but to just be there. To listen to her. To just sit with her. She had been through a lot, and walking through those courtroom doors I realized she was not alone. The courtroom on the 4th floor of the Mecklenburg County Courthouse that deals primarily with domestic violence on this day was full. It was like this most days, I was told. I sat there and listened to victim after victim tell their stories to the judge. I did not realize what some of these victims had to live through every day. After court I went back to the attorney's office so we could talk about the court session. Walking through the lobby of her office, I saw more victims, and they had looks on their faces I could not forget.

I decided that summer after my 1L year I was going to volunteer at United Family Services with anything they needed. When I received my legal practice certification, I started to represent victims of domestic violence under the supervision of the licensed attorney in the office. I was offered a job out of law school with a private family law firm in Charlotte where I worked my 3L year, and worked there for over a year. In February the staff attorney position became open at Safe Alliance. I applied and was offered the position. I quit my job in private practice and have been in the nonprofit world since February. I have never had a job in my life that has been as fulfilling as what I do every day. I would not change anything about it. The money is not what I used to make. Not even close. But just being there for someone and helping them through such a difficult time in their life is important to me. That is the reason I am committed to public interest law.

The North Carolina Bar Association's Military and Veterans Affairs Committee (MVAC)

Chaired by Kirk Warner of Smith Anderson in Raleigh, and currently in its third year of operation, MVAC was founded to serve as the coordinating body for all NCBA activities impacting the military and veterans. It is a nexus for initiatives addressing employment, housing, consumer, financial, family law, and other needs, with the greatest focus being on legal issues. Success requires a willingness to share ideas and resources with groups in North Carolina, and to learn from groups in other states. To date, Mr. Warner has represented MVAC at the National Association of Bar Executives and at a multi-state symposium hosted by the Georgia State Bar. MVAC also meets quarterly, scheduled in tandem with LAMP to facilitate collaboration.

Despite being relatively new, the NCBA MVAC is ahead of the curve in trying out new ideas in a variety of areas. Subcommittees work to support the hiring of veterans within the legal field, conduct outreach to housing authorities with the power to give preference to HUD-VASH voucher holders, advocate for the expansion of Veterans Treatment Courts, and develop *pro bono* in the area of family law and disability appeals. One of MVAC's proudest accomplishments was a CLE program in February 2015 to increase the number of VA accredited attorneys in North Carolina and to educate the legal profession about PTSD in combat veterans.

Key Initiatives

Cooperation among members of LAMP, MVAC, and the VPBN has given rise to several initiatives that are changing the way the legal profession serves North Carolina's military and veteran population. These include regular legal clinics at VA Medical Centers, the NCBA Family Law Section's *pro bono* project for low-income veterans, and special court projects inspired by Veterans Treatment Courts.

Legal Clinics at VA Medical Centers

Monthly legal clinics at VA Medical Centers, staffed by legal aid providers and facilitated by Veterans Justice Outreach specialists,[9] are one of the most collaborative projects of the VPBN. Since September 2013, Legal Aid of North Carolina and Legal Services of Southern Piedmont have staffed a monthly civil legal services clinic at the Hefner VA Medical Center in Salisbury. In spring of 2014, attorneys from Legal Aid of North Carolina's Durham office recruited and trained law students to address re-entry and income-maintenance needs of homeless veterans at the Durham VA Medical Center. In spring 2015 the VPBN piloted a wills and advanced directives clinic in conjunction with the monthly clinic in Salisbury to address the expressed needs of elderly and disabled veterans; due to technological and other limitations, this project will be further developed off-premises.

Though they operate on different models and focus on different areas of the law, the success of these initiatives demonstrates the viability of community-based volunteer legal services at the local bar level, as well as the value of working with the VA health system to reach our most vulnerable veterans.

Serving Those Who Served

NCBA President Shelby Benton of Goldsboro is a member of the LAMP Committee and was a member of the NC Veterans *Pro Bono* Network when it identified family law as a critical services gap for low-income veterans. She worked with the NCBA's Family Law Section to develop "Serving Those Who Served," the section's signature *pro bono* project that matches private attorney volunteers with low income veterans and service members with family law issues. The project is managed by Ms. Stewart of the VPBN, and officially launched during *Pro Bono* Week in October 2014. Assistance ranges from brief advice and phone consults, to ongoing representation. To date, over 40 individuals have received some form of assistance in matters such as custody, child support, divorce, and adoption.

Notably, the project has assisted several wounded warriors whose military service contributed to their family struggles. One client is a veteran escaping domestic violence while trying to protect her child. The adverse party attempted to use her service-connected disability status against her in court proceedings. Another client is a veteran who received a default judgment while in residential treatment for PTSD and consequently struggled to find employment so that he can meet his child support obligations. Another is a decorated combat veteran whose ex-spouse used his service-connected PTSD to deny him unsupervised visitation with his daughter.

Phase two of the project, set to launch during *Pro Bono* Week 2015, will incorporate law student participation and mentorship that will hopefully serve as a model for other NCBA sections wishing to serve veterans with needs in other areas of the law. If you would like to partner with law students to serve veterans' family law needs, email vets@ncbar.org for more information.

Veterans Treatment Courts

NC's first Veterans Treatment Court (VTC) began in 2013 in Harnett County; a year later, the Cumberland County VTC opened just as Harnett was graduating its first participants. The Buncombe County VTC opened in Spring 2015, and more are on the way. While neither MVAC nor the VPBN are involved in decision-making or funding of the VTCs, these groups have provided technical assistance on an informal basis to court personnel as well as to communities wishing to establish innovative projects serving the criminal legal needs of veterans, service members, and their families.

VTCs are usually organized by a local steering committee before being formally established via funding from the Governor's Crime Commission. These courts are welcome entities providing structure and peer support for veterans with serious offenses related to untreated substance use and mental health issues. Despite their limited scope, these courts have planted a seed allowing for additional innovative efforts in communities with large military and veteran populations.

Chief among these efforts are special court sessions designed by members of the VPBN in cooperation with local court officials and other stakeholders to meet the needs of veterans in specific communities through innovative and cost-effective court practices.

One such project was "Veterans Amnesty Day," piloted in New Hanover County on May 8, 2015, in tandem with the local annual Stand Down event. At this special session of district court, veterans, service members, and spouses with outstanding warrants, traffic tickets, or missed-court fines for nonviolent misdemeanors could have these matters dealt with without fear of arrest, confinement, or debilitating fines. In just two hours on a Friday afternoon, 60

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Parker Poe and **Duke Energy** are proud to partner with the **Access for Justice Pro Bono Partners Program** to provide legal services to the underserved. Through this program, Parker Poe and Duke Energy have handled over 125 criminal expunction cases that open opportunities for housing and employment to North Carolina residents. Recently, this work was recognized by receipt of the **Mecklenburg County Bar's Outstanding Collaborative Project Pro Bono Award**.

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individuals were able to dispose of about 100 matters[10] from the five-county area covered by the 5th and 13th Judicial Districts[11] (New Hanover and Pender Counties, and Bladen, Brunswick, and Columbus Counties, respectively).

Critical to the success of this event was a special commission from the NCAOC that allowed charges from other counties to be disposed of in the New Hanover County location, with judges, prosecutors, and defense attorneys from both districts on hand. Most importantly, clerks from all five counties were present with at least some level of remote access to court records as needed. The project will likely be replicated in other judicial districts later in 2015. It should be noted that in areas with limited access to technology, the full potential of cross-district dispositions will remain unfulfilled.

Call to Action

In summer 2015 the VPBN worked with MVAC and LAMP to build a strong volunteer infrastructure to better serve individuals with matters that are beyond the scope of what nonprofit legal services and NCBA *pro bono* projects can provide. Through the MVAC's Disability Subcommittee, the network has been able to engage North Carolina attorneys who are accredited to handle claims before the VA in taking on *pro bono* cases, sometimes in other areas of the law. Additionally, MVAC and LAMP attorneys have helped the VPBN establish relationships with organizations serving veterans at the county and state level with a view to coordinating efforts among local attorneys to provide *pro bono* service to veterans in their own communities. If you are interested in assisting these efforts, sign up at ncbar.org/giving/volunteer-now/veterans-pro-bono-network. Contact Charlotte Stewart at vets@ncbar.org with questions. ■

Charlotte Stewart is the assistant director of public service and pro bono *activities at the North Carolina Bar Association. She coordinates all activities of the North Carolina Veterans* Pro Bono *Network, a coalition of stakeholders serving veterans' legal needs statewide.*

Kirk Warner is a partner at Smith Anderson in Raleigh. In 2013 Warner retired from the United States Army after 33 years of military service including as the deputy legal counsel to the chair of the joint chiefs of staff at the Pentagon. Warner is a member of the North Carolina Equal Access to Justice Commission.

Endnotes

1. ncdps.gov/NewsReleases/2015/sotsmilitaryfact.pdf.
2. nclamp.gov.
3. nlada100years.org.
4. nvlsp.org.
5. Information about volunteer opportunities is available at ncvetslegal.org/volunteer.
6. A Stand Down is a one-stop service fair for homeless veterans, offering a range of services including dental, housing counseling, and health screenings, as well as clothing and a hot meal. nchv.org/index.php/service/service/stand_down.
7. Information about upcoming Stand Down events is available at ncvetslegal.org/calendar.
8. mdcinc.org/projects/nc-vetscorps.
9. va.gov/homeless/vjo.asp.
10. starnewsonline.com/article/20150508/ARTICLES/150509760.
11. wwaytv3.com/2015/05/04/first-veterans-amnesty-day-announced-in-north-carolina.

Celebrate *Pro Bono*: October 25-31, 2015

As part of our professional responsibility, Rule 6.1 encourages lawyers to give time and money to provide legal services to those unable to pay.

Join us in celebrating National *Pro Bono* Week, October 25-31, 2015. The National *Pro Bono* Celebration focuses the nation's attention on increased need for *pro bono* services, and celebrates the outstanding work of lawyers who volunteer their services throughout the year.

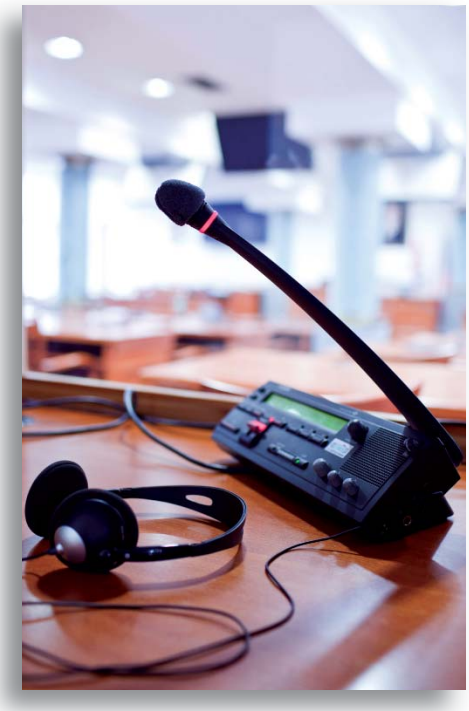
During *Pro Bono* Week, North Carolina legal aid programs, bar associations, law firms, law schools, and others will celebrate *pro bono* by recognizing volunteers, offering training, providing *pro bono* legal services at clinics, hosting events to raise money for legal aid, and raising awareness of the need for *pro bono*. For more information about events in your area, visit probono.net/celebrateprobono/events.

There is only one legal aid attorney for every 13,170 low-income people in North Carolina. There is one private attorney for every 562 North Carolinians. In 2014, lawyers across North Carolina gave more than 18,000 hours to help legal aid programs provide critical assistance to low-income North Carolinians struggling with civil legal problems ranging from domestic violence to foreclosure. The total value of the *pro bono* volunteer contributions exceeded $3.6 million in 2014. Thank you for your commitment to providing *pro bono* to ensure access to justice for those in need!

The NCAOC's Standards for Language Access Services System

By Brooke Bogue Crozier

The NC Administrative Office of the Courts (NCAOC) recently announced its "Standards for Language Access Services in the North Carolina System." The standards provide policy and governance for spoken foreign language access services, the expansion of which has been ongoing since August of 2012 via a phased implementation approach. The standards also support the judicial branch's mission to remove barriers that hinder equal access to justice by individuals with limited English proficiency (LEP).



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The 75-page document provides judicial officials, court personnel, district attorneys, public defenders, and private attorneys with effective policies, procedures, and best practices for ensuring that all limited English proficient parties in interest have equal access to justice in the North Carolina courts. The provision of meaningful access to the courts is a responsibility shared by all legal actors and court staff. Adherence to these standards and cooperation among all court players is essential to fulfilling NCAOC's commitment to providing meaningful access to its courts by all individuals, regardless of national origin or limited ability to read, write, speak, or understand English.

While full expansion of language access services is still in progress, the proceedings in which the North Carolina Judicial Branch currently provides court interpreters at state expense for LEP parties in interest are:

- criminal court proceedings,
- Chapter 50B (domestic violence protective order) court proceedings,
- Chapter 50C (civil no-contact order) court proceedings,
- child custody mediations,
- juvenile proceedings,
- incompetency proceedings,
- Chapter 122C civil commitment proceedings,
- child custody and child support proceedings,
- summary ejectment proceedings,
- foreclosure proceedings,
- eminent domain proceedings, and
- all proceedings heard before magistrates.

Expansion to additional case types will be announced by the director of NCAOC as data is collected and analyzed to determine the ability of limited state resources to adequately meet the demand for additional interpreting services.

While court interpreters are by far the most important language access resource for providing equal access to justice for LEP individuals during court proceedings, NCAOC has expanded language access services to include new technology for providing language access services in the courtrooms, as well as additional services to facilitate lan-

Access to Justice Partners: Health Insurance Marketplace Navigator Projects

By Madison Hardee, Staff Attorney and Health Insurance Marketplace Navigator at Legal Services of Southern Piedmont

Why are law firms signing people up for health insurance plans available under the Affordable Care Act? We get this question a lot. For the past two years, Legal Aid of North Carolina, Legal Services of Southern Piedmont, and Pisgah Legal Services have worked together with agencies across the state to facilitate access to healthcare for the most vulnerable members of our communities. We know that our clients are often facing multiple barriers that keep them trapped in a cycle of poverty.

For many, access to health insurance can truly be life changing. After being the victim of an armed robbery that left him paralyzed, 25-year-old Alvaro* came to Legal Services of Southern Piedmont (LSSP) for help obtaining a U visa. During the course of representation, his LSSP attorney referred him to a bilingual Health Insurance Marketplace navigator at the agency. Alvaro learned that he qualified for a special enrollment period and a tax credit, which meant he could get a policy for less than $10 a month that included physical therapy and the medications he had been prescribed but was unable to afford. Alvaro is now getting the care he needs to be successful as he continues his path towards citizenship.

As advocates for low-income families, we are proud to offer outreach and enrollment assistance. As attorneys, we are glad to provide expertise to our clients and our community partners on the often complicated intersection of healthcare, tax, and immigration law under the Affordable Care Act.

*Name changed to protect identity.

guage access necessary outside of the courtroom. All of the language access services currently available in the North Carolina court system are:

- court interpreting services provided by authorized NCAOC court interpreters,
- telephone interpreting services for very brief non-evidentiary matters in district court, such as continuances or first appearances,
- telephone interpreting services in magistrates' offices for initial appearances, and in clerks' offices, family court offices, child custody mediation offices, district attorneys' offices, and public defenders' offices to facilitate communication between staff and the LEP public,
- translation services for vital court documents and court forms, and
- transcription/translation services for audio sources,
- T3 HD remote interpreting equipment, which was recently added, and allows for on-demand video and audio access to certified Spanish court interpreters who are able to provide interpreting services via the stand-alone T3 HD in all three modes of court interpreting: sight translation, consecutive interpreting, and simultaneous interpreting; and also allows for confidential counsel/client communication during the proceeding.

The T3 HD remote interpreting equipment is the most recent addition to the language access services available. Currently it is only available in three counties, with a fourth location pending. Four T3 HD units were purchased in 2014 with Governor's Crime Commission grant funds, and were placed in county courthouses where concerns were expressed over the difficulty in securing the services of certified Spanish court interpreters for LEP parties, and where there was also a willingness to use new technology. Currently the T3 HD is active and available in the courthouses of Brunswick, Dare, and Pitt Counties. Call center capability has been created between select NCAOC staff court interpreter offices. This ensures that a certified Spanish court interpreter will be available and used for all calls. This technology will be a potential game changer in terms of ensuring quality language access services are provided as quickly and efficiently as possible. The use of this technology not only eliminates costly travel expenses incurred by court interpreters who are located hours away, it also allows for the more efficient use of contract court interpreters who have been scheduled by staff court interpreters, but find themselves released from their assignments sooner than expected. Rather than release the contractor before the contractor's minimum billable time has lapsed, staff can now reassign the contractor to additional court coverage or T3 HD call center coverage for the remainder of the time the contractor has obligated to NCAOC.

What is effective language access and why is it important to the administration of justice? Ensuring equal access to justice for LEP individuals requires effective language access throughout the court process. Effective language access is only provided through the use of properly trained, certified, or qualified court interpreters and provides LEP individuals with linguistic presence throughout all court proceedings. The LEP party cannot be present without the ability to hear in his language everything that is said during the proceedings, and would be heard by an English speaker in the same position. Only when the LEP party hears in his language everything that is being said during the proceedings will he be able to meaningfully participate and assist his attorney. Essentially, effective language access places the LEP individual in the exact same position as an English speaker. Ensuring effective language access services are provided to LEP individuals also serves the court's interest in ensuring accurate communication is taking place during the proceedings and protecting the integrity of all evidence presented before the court.

It is strongly recommended that attorneys and judges take advantage of the in-depth guidance provided in *Fundamentals of Court Interpretation: Theory, Policy, and Practice (Second Edition)*, Roseann Dueñas González, Victoria F. Vásquez, Holly Mikkelson, 2012. Specifically included in the 2012 edition is *Unit 4: LEP Guidance for Judges and Lawyers*. This section was included to provide practical guidance to judges and attorneys in an effort to improve their knowledge about the effective utilization of court interpreters. It discusses ways in which judges and attorneys can facilitate and support the interpreter's role. It also examines cross-cultural issues that attorneys should be aware of that interfere with communication, and ultimately the LEP client's equal access to justice.

Every 9 seconds
a woman is abused.

Domestic violence is the #1 reason women and children become homeless in the U.S.

32% of all children &
16% of seniors

are eligible for legal aid that is increasingly less accessible.

In determining whether or not a client is LEP, it is important to keep in mind that a person's ability to carry on an everyday, basic conversation in English in a social setting or to answer basic questions is not determinative of the person's ability to meaningfully participate in a legal proceeding. Attorneys should be very careful not to allow clients to self-assess their English language skills, as LEP individuals are often not willing to admit their LEP status, and may also not readily admit they do not understand something that has been said. Furthermore, the language used in the court environment is of a much higher register and is much more complex than everyday language. Many English speaking clients do not understand what is being said in the courtroom. In the case of LEP clients, unless the client has obtained advanced English proficiency which is developed only through years of exposure to the language and formal education, the client should be considered LEP and provided a qualified court interpreter. This is perhaps a good time to mention the delicate issue of using an attorney's own limited language ability in the client's language or that of bilingual staff. Well-meaning attorneys often report that their "Spanish is good enough to get by during my meetings with my client." Unfortunately, more likely than not, this is not the case and the attorney cannot ensure that accurate communication occurred between attorney and client. The rule of thumb in the situations where an attorney has some language proficiency in the client's language is: Unless an attorney has what is referred to as "advanced, native-like, professional level proficiency in the language of the client," the attorney should not attempt to have substantive communications with the client about the case. (*Fundamentals*: 610) Rather than risk miscommunication that could have a negative impact on the client, the attorney should ensure that a professional interpreter is used for all attorney-client communications.

While the determination of LEP status is important in ensuring the provision of professional, properly trained court interpreters for all court proceedings, it is just the tip of the iceberg in the full understanding of what effective language access means for attorneys and their LEP clients. The guidance found in *Fundamentals* includes discussions about the role of the attorney and the LEP client. *Fundamentals* points out that representing any client takes time and effort, but effectively representing an LEP defendant is uniquely demanding and requires attention to linguistic and cross-cultural communication issues. The representation of an English proficient client requires significant work to fully educate the client about the legal process, the details of the client's case, and the client's options and what each option means so the client can make the most fully informed decision possible. During this process, attorneys likely find that many of their English speaking clients are confused by the legal environment. When representing LEP clients, much more time and attention is necessary to ensure the same quality of legal representation to the LEP client. Attorneys should be aware of the issues that are unique to LEP clients and require special handling.

As the language access needs of the North Carolina courts grow, so does the responsibility of maintaining and improving the quality of the language access services provided to LEP individuals. The standards will assist the NC court system in ensuring equal access to justice and to the courts to all LEP individuals who must avail themselves of the court system. Encouraging culturally aware and culturally competent attorneys to take the extra time and effort to ensure the complete understanding and the full and fair participation of their LEP clients will serve the administration of justice in the North Carolina courts well. ■

Brooke Bogue Crozier is the manager of the North Carolina Administrative Office of the Courts' Office of Language Access Services (OLAS).

Tips for Attorneys Who Represent LEP Clients

Attorneys are extremely vital players in protecting the due process rights of clients whose primary language is not English, and who do not have an advanced level of English language proficiency which allows for meaningful participation in a legal environment. Attorneys must take responsibility for determining a client's need for an interpreter. Once an attorney has determined the client is limited English proficient, the attorney should ensure that a request for language access services is submitted for all court proceedings to ensure linguistic presence at every stage of the proceedings.

- Be careful not to underestimate the English language deficiencies of the client.
- Be careful not to overestimate one's own non-English language proficiency. A professional interpreter should be used for all counsel/client communication unless attorney has advanced, native-like, professional-level proficiency in the client's language.
- Do err on the side of caution and request interpreting services for LEP clients for all court proceedings.
- Do identify the correct language of the client.
- Do submit requests in advance to ensure court interpreter coverage can be secured timely.
- Download quick reference sheet for how to schedule a court interpreter on a court proceeding at nccourts.org/LanguageAccess/Documents/Courts_Schedule_Interpreter_Chart.pdf.

Pursuing Justice for North Carolina Consumers: Three Success Stories

By Karen Fisher Moskowitz, Sharon Dove, and Carlene McNulty

A recent study showed that more than 60% of Americans do not have an emergency fund.[1] When these families face unexpected costs such as when a car breaks down or emergency medical attention is required, many families cannot afford to pay for these costs. Legal aid can assist low-income clients facing unexpected and sometimes unlawful expenses before these issues spiral out of control and destabilize a client's financial future.

Legal aid providers are committed to helping families build and preserve wealth by challenging predatory lending practices, addressing fraud, and protecting their rights as consumers. Legal aid providers also educate consumers about the consequences of certain high-risk economic decisions and how to avoid abusive and predatory practices. Below are three examples of such work.

Karen Fisher Moskowitz

Attorney/Director of Consumer Protection and Employment Program
Legal Services of Southern Piedmont

Moving into a community with a homeowners association (HOA) can have substantial benefits. The community is maintained, repairs to the common areas are taken care of, and a well-managed association can work to increase everyone's property values. Problems arise when the neighborhood is not well managed, or a homeowner has a hardship and is not able to pay their fees and assessments, or a homeowner has a dispute over what they owe their HOA and the HOA uses strong-arm collection tactics.

Legal Services of Southern Piedmont (LSSP) has been able to assist homeowners when the water to their home has been shut off by their HOA for unpaid assessments or fees. Last year Bernice,* a sweet, older woman, contacted us for help when she fell behind on her unpaid HOA dues and other fees after her budget was strained as a result of an illness that caused her to pay out-of-pocket for very expensive medication. Bernice had been in and out of the hospital when she fell behind on her dues. After getting out of the hospital, she tried to work out a payment plan with her homeowners association, but they insisted on payment of the full balance, which she couldn't afford on her fixed income.

When the HOA threatened to turn off her water, Bernice knew she had to get some outside advocacy. Her medical provider told her that living in a home without water

would cause her condition to deteriorate, and that she could possibly end up back in the hospital.

Although many city and county housing code sections state that having no water is imminently dangerous to health and safety, some poorly managed HOAs have begun shutting off water to those residents in an attempt to collect on HOA debts. Unlike public utility companies that must adhere to strict rules before disconnecting services, especially to elderly and disabled people, the HOA in Bernice's case insisted that providing water to homeowners amounted to a "privilege or service" provided by the association. Through a long series of negotiations on Bernice's behalf, LSSP was able to help Bernice work out a payment plan and keep her water from being shut off.

Another homeowner contacted LSSP after he returned home to the duplex he shared to find that his water had been shut off by his HOA. He was not behind on his dues or assessments at all, but his neighbor was behind, and the main water switch to both units had been pulled. Again, LSSP attorneys were able to assist him, and they continue to assist others like him having water turned back on after an overzealous HOA has shut it off.

*Client names have been changed to protect confidentiality.

Sharon S. Dove
Managing Attorney
Legal Aid of North Carolina-Gastonia

Few things in North Carolina are as important to legal aid's clients as their vehicles. Without a car, they lack access to employment, groceries, and health care. Yet our clients, who scrape their dollars together for months to buy an old used car, can find this precious possession vulnerable to repossession even when they do not violate the terms of their financing agreement with the dealer. Such was the case for Penny*, a then-unemployed hair dresser and single mother of two young boys, whose car was repossessed on December 30, 2014.

On November 4, 2014, Penny purchased a 2003 Ford, paying $1,000 down and financing the $3,500 purchase price balance at an annual interest rate of 25% from a used car dealer. Penny provided the dealer with proof of insurance coverage on the date of sale. Indeed, Penny kept her insurance coverage and her bi-monthly loan payments current. Her only mistake—which was not a breach of her contract with the dealer—was that she did not tell the dealer she had switched insurance carriers on or about December 9, 2014. Unfortunately, this omission led to tragic consequences for Penny.

At some point after December 9 but before December 30, 2014, the dealer contacted Penny's original insurance carrier to check whether her policy was current. When the original carrier informed the dealer about the policy cancellation, the dealer set the wheels in motion for repossession even though he had no right to do so. The dealer did not call Penny until noon on December 30, which was the day he had arranged for the car to be repossessed at 2:00 p.m.

When the dealer called at noon on December 30, Penny was interviewing for a position at a beauty salon. The call went to voicemail, which Penny decided she would check after purchasing her family's groceries. At 2:00 p.m. Penny emerged from the grocery store just as the repo man finished hooking her car to his tow truck. Penny begged the repo man to tell her what was going on. When he did, she pleaded with him to leave the vehicle because she could produce proof of current insurance coverage. The repo man said it was too late and to call the dealer.

Immediately after the repo, Penny listened to the dealer's noon voicemail for the first time. She called the dealer and even had the insurance agent for her current policy call the dealer as well. However, the dealer was unrelenting, insisting that Penny could not recover the car unless she paid over $400 in fees. Penny called the dealer multiple times after this initial call, and each day the dealer demanded a higher price for return of her vehicle.

With nowhere else to turn, Penny called Legal Aid of North Carolina, and our office began negotiations with the dealer. We informed the dealer that his repo in the absence of a default violated Article 9 of the Uniform Commercial Code—*see* N.C.G.S. §25-9-609—which subjected him to disgorgement of 10% of the contract principal plus all interest received from Penny—*see* N.C.G.S. §25-9-625(c)(2). The dealer was persuaded to return the car to Penny immediately without charging her a dime.

Now, Penny's car is back where it belongs. She can do the things she needs to for her family—drive to work, pick up her children from school, and shop for groceries.

*Client names have been changed to protect confidentiality.

Access to Justice Partners: Western North Carolina Low Income Taxpayer Clinic

By Arthur Bartlett, Legal Services of Southern Piedmont Attorney/Director

Since 2002 the Western North Carolina Low Income Taxpayer Clinic at Legal Services of Southern Piedmont has assisted thousands of low-income taxpayers with critical IRS tax issues, from simple balance due cases to more complicated audits and tax court representation. The taxpayer clinic's outreach and educational activities complement this work by providing valuable information to low-income taxpayers and people for whom English is a second language about their rights and responsibilities as taxpayers. LSSP's Taxpayer Clinic seeks to assist taxpayers attempting to navigate the complicated tax system, whether they already have tax issues or are simply trying to understand how to avoid creating one.

None of LSSP's work would be possible without the support it receives from the IRS through a grant administered by the independent offices of the Taxpayer Advocate Service. Since 2002 the LSSP Taxpayer Clinic's awards have increased steadily to the maximum amount possible of $100,000. These funds, in addition to LSSP's annual giving campaigns and in-kind services donated by local *pro bono* attorneys, enable the clinic to alleviate the hardships of as many low-income taxpayers as possible.

As always, the tax clinic is committed to serving taxpayers in need and is eager to continue the successes achieved over the past decade. For more information, call the LSSP client help line, 704-376-1600.

Access to Justice Partners: UNC Law Continues Commitment to *Pro Bono* through Alumni

By Sylvia Novinsky, Assistant Dean for Public Service Programs, UNC School of Law, and Jared Smith, Class of 2016, UNC School of Law

As part of UNC Law's long tradition of public service to the state of North Carolina, the UNC Law *Pro Bono* Program encourages students to address unmet legal needs. This year more than 78% of students have joined the tradition by doing *pro bono* while at UNC. This success is in part due to *pro bono's* ability to offer both skills and fulfillment, which does not end at commencement.

The program re-engages alumni with the Tar Heel community and supports attorney *pro bono* efforts. UNC Law alumni Lawyer on the Line (LOTL) is one example of how the program instills a "life-long commitment to *pro bono* work." This project is a collaboration among Legal Aid of North Carolina, the North Carolina Bar Association, and UNC Law that pairs current students with practicing attorneys on housing and employment law matters.

Coordinator Kinnari Bhojani, UNC School of Law Class of 2016, says, "LOTL has allowed me to develop practical legal skills while making a difference in North Carolina, all while letting me connect with and learn from practicing attorneys." Attorneys have had a chance to learn through this project, too—this year UNC Law and Legal Aid hosted a CLE training attorneys to handle these cases both on site and remotely.

To volunteer with any UNC Law *pro bono* project, visit our attorney *pro bono* opportunities portal at law.unc.edu/probono/alumni.

Carlene McNulty

Senior Attorney, Consumer & Housing Project
North Carolina Justice Center

Education has been the cornerstone of the American Dream, as millions of Americans—rich and poor—have achieved a better life through the power of a college degree. Unfortunately, unscrupulous players in the burgeoning for-profit school industry have been selling this dream to unsuspecting students with promises of great job opportunities, leaving them instead with meager job prospects and crushing debt. The North Carolina Justice Center has recently formed a new initiative to focus on this problem. Our clients—graduates of for-profit schools—rarely find themselves in the kind of work they were promised when they enrolled. Alice, for example, was promised a job in the travel industry. Tens of thousands of dollars later, she is working as a clerk in a big-box store, the job she had before she enrolled in school. John wanted to pursue a career in social work. Lured by a fancy advertisement, he signed up for a masters program at a for-profit institution. The internships he was promised did not materialize, nor did the assistance with finding gainful employment. Sixty-thousand dollars later, he has been told by prospective employers that the degree is not worth the paper it is written on.

Over the past two decades, national enrollment at for-profit institutions has increased over 225%, and each year this sector has received a larger share of federal student aid funding. With this growth has come an increased awareness of widespread problems within the industry. For-profit schools charge higher tuition than comparable public or private nonprofit schools, spend a large share of revenues on expenses unrelated to teaching, experience high dropout rates, and too often employ abusive recruiting and debt-management practices.

For-profit schools widely market their services in North Carolina, but many consumers are unaware of the potential problems related to enrolling in a for-profit school. Our nation's veterans have been a specific target for enrollment at these institutions. Potential students fail to compare other lower-cost education and training programs that are available in North Carolina's community colleges. Often the programs offered by these for-profit institutions fail to provide the credentials or training that is advertised or that is required for employment. Vulnerable students have fallen prey to the schools' aggressive marketing tactics.

These for-profit institutions too often leave students with massive debt that will follow them for their lifetimes. Students at for-profit institutions—many of whom are low-income—are more likely to borrow larger loan amounts than their peers at nonprofit and public institutions. Well over 90% of for-profit students take out student loans, compared to less than 15% percent of community college students. Students at for-profit colleges are also more than twice as likely to default on federal student loans as those who attend public institutions.

The Justice Center is using a multi-prong approach to address this problem. In addition to representing consumers victimized by these practices, the center has developed an extensive community education campaign to try to stop the problem before it starts. We educate low income consumers, including veterans, regarding how best to avoid potential abuses by for-profit schools. We discuss the problems associated with taking on too much debt, and encourage workshop participants to explore lower-cost education options such as community colleges. ■

Karen Fisher Moskowitz is a staff attorney at Legal Services of Southern Piedmont and the director of the Consumer Protection and Employment Law Program. She is a member of the North Carolina, Arkansas, and Georgia Bars, and has worked in legal services for nearly 25 years.

Sharon Dove is the managing attorney of Legal Aid of North Carolina's Gastonia office, a position she has held since 2003. She previously worked for the Charlotte law firm of Ferguson, Stein, Chambers. Dove earned her law degree from the New York University School of Law in 1998.

Carlene McNulty is the director of litigation at the North Carolina Justice Center and senior attorney of the Consumer and Housing Project. Carlene is also a clinical assistant professor at UNC School of Law in the Consumer Financial Transactions Clinic.

Endnote

1. bankrate.com/finance/smart-spending/money-pulse-0115.aspx, accessed June 16, 2015.

Providing *Pro Bono* Services in Rural North Carolina

By M. Ann Anderson

Attorneys in smaller communities know about *pro bono*. They frequently give of their time to citizens throughout their small towns and counties without an expectation of pay. The opportunities to provide *pro bono* service arise in many ways—some formal and, most commonly, informal, subject to the individual attorney's practice.

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There is only one legal aid attorney for every 13,170 low-income people. In contrast, there is one private attorney for every 562 North Carolinians. In many—if not most—of the small communities in North Carolina, easy access to legal advice is not available through an existing legal aid office because there are not enough legal aid attorneys. Instead, many needy rural North Carolina citizens who would otherwise find their legal needs unanswered have been able to utilize several methods of procuring assistance.

One way small communities are served is through a joint North Carolina Bar Association and Legal Aid of North Carolina (LANC) program, Lawyer on the Line (LOTL), which connects legal aid eligible clients from any geographic region of the state with volunteer attorneys who advise the clients over the telephone from the attorney's office. Another is the most common but less recognized practice of attorneys in those small communities giving advice, performing services, or representing clients with little or no expectation of being compensated. Finally, some attorneys volunteer with local legal services offices to actually take the client's case and handle the matter to conclusion.

Lawyer on the Line Attorneys Serve Needy Clients Throughout the State

The North Carolina Bar Association and LANC work together to provide the very successful *pro bono* program of LOTL. LOTL is a flexible opportunity designed to fit into the schedule of any busy attorney, wherever the attorney or client is located in North Carolina. Clients who meet the eligibility criteria of LANC are prescreened by LANC through a telephone call. The screener determines the client's area of legal need and then matches the client with an available attorney who has agreed to participate in the program. Volunteer attorneys commit between one and four hours monthly to provide advice by telephone to program clients.

Specifically, LANC screens clients to ensure they are low-income, that their issue/situation ideally will take less than one hour to address through advice only, and can be adequately handled via telephone. LANC provides an email to the volunteer attorney that contains information about the client's case and introductory materials on the legal topic. Part of the program also includes malpractice insurance and training for the covered representation, and an easily-reached mentor who is always available to discuss cases if needed.

The expectations by LANC are that the volunteer attorney will interview the client, provide basic advice, and write a brief summary of the advice given, which is then sent to Legal Aid for review and case closing. Every case is assigned based on the volunteer's availability—if a volunteer is having a

Access to Justice Partners: Carolina Student Legal Services

By J. Tristan Routh, Staff Attorney, Carolina Student Legal Services, Inc.

Carolina Student Legal Services, Inc. is a nonprofit, pre-paid legal services plan funded entirely by student government at the University of North Carolina at Chapel Hill. At Carolina Student Legal Services, Inc., we are able to advocate for students with limited resources whose cases would be uneconomical for private attorneys to litigate. A good example of this is the matter of a client named Mr. G.

Mr. G contacted our office for assistance with a dispute over a security deposit in a residential lease. The landlord had withheld Mr. G's entire security deposit for alleged damages to the premises. Mr. G vehemently denied any responsibility for the damages, and from the facts it appeared the damages were the result of ordinary wear and tear and not legally chargeable to our client. The amount in controversy was only $1,175.

In litigating this matter, we wrote numerous demand letters and even drafted a complaint to file in district court if negotiations were unsuccessful. Eventually, after spending time that would amount to over $2,000 in legal fees in private practice, our office was able to negotiate a favorable settlement, whereby my client would recover the vast majority of his deposit and avoid a protracted court battle. Even this relatively small recovery made a huge difference to Mr. G, as his family had limited income, one child, and another baby on the way.

busy week (or several weeks), he or she can decline a referral and will receive one that works for his or her schedule once time is again available. The vast majority of LOTL cases take less than one hour to complete, and most attorneys report that they feel that they have truly helped each client after speaking with them.

Tom Anderson from Pilot Mountain, North Carolina, practices debtor bankruptcy law and serves as a LOTL volunteer. His LOTL cases vary, but basically Anderson says that the clients who seek assistance are people who do not understand the legal process or legal principles and many times do not have the skills to address the factual situations facing them. Frequently, Anderson finds that he is helping clients marshal and prioritize facts and goals so that they can make a decision. LOTL clients are sometimes in positions where they have legal rights, but they do not know what they are. In Anderson's experience, the opposing party knows the law and "that imbalance in knowledge gives power to the opposing party."

One of Anderson's LOTL referrals involved a debtor who had a meager income and was threatened by a creditor with wage garnishment for a student loan, when wage garnishment was not legally allowed because of the client's very low income. Anderson intervened with the creditor who communicated to Anderson that its rules permitted it to garnish wages. The creditor assumed that the debtor would be powerless in the face of its threat. Anderson told the creditor he did not like the rules and that "we are going to use the law." The creditor did not pursue the client when it realized that the client was empowered by being represented by someone who knew the law. This LOTL representation took less than two hours and involved only gathering documents and talking to the client and the creditor on the telephone. The debtor in this matter did not have ready access to a legal aid office.

Anna Winger gives additional examples of how LOTL serves rural communities. Winger, who handles trusts and estates and represents small businesses, serves on the LOTL Committee. Winger has represented a number of LOTL clients. One illustrative case that she handled took less than two hours, but made a huge difference to the woman she was advising. Winger said the client had a third party payee receiving her social security check. According to Winger, in some cases, where the recipient is not competent, a third party can be designated to receive the principal's social security check. The client was not getting the money from the social security check forwarded from the payee because of a personal conflict with the payee. Winger believed that the payee was receiving the money only because the client was homeless. The client met several times with the Social Security Office, but could not determine how to get the money sent directly to her. Winger determined that the client needed a form, talked the client through how to get a note from a doctor to say she was competent—which Winger had no doubt that she was—and then talked to the representative from the Social Security Office. There was some time pressure, because a check was going to be distributed fairly soon. Because of Winger's efforts, the client was able to get the money sent to her directly and this change made a huge difference in her life. The client mailed Winger a thank you card with a note and money, which Winger returned. As an aside, Winger observed that her partner learned about practicing Social Security Law through the LOTL program, liked what she was doing, and now has a practice in this area.

Regan Rozier, who practices in Wilmington, notes that one of the benefits of LOTL is that the program serves citizens who are in smaller communities because attorneys can talk to clients who are located anywhere in the state. Rozier says that he volunteers with LOTL because it is a good way to give back with very little time commitment, and because he knows that with one phone call you can make a big difference in someone's life. Many of his cases take only 15 minutes. Rozier's referrals involve many people who just want to know what their options are or their legal rights. Clients who learn their options are then provided with power to handle their personal challenges.

Rozier, who has served as co-chair of the LOTL Committee, handles a variety of cases including expungement files which take about 30 to 45 minutes per client. Because LANC sends him all the information he needs, including the client's criminal record, he can review the chart to determine if the client is in fact entitled to have the criminal record expunged. Volunteers are not expected to actually file for the expungement, but just to advise the client.

Lawyers who volunteer for LOTL also benefit from serving the needy clients. Bryn Dodge Wilson from Mooresville was recruited to participate in the program by her uncle, Gray Wilson. Bryn, who previously practiced

with a large firm, has been a stay-at-home mom for the past five years and was looking for a way to keep her fingers in the legal field. Ms. Wilson says that providing service to a client is easy, especially when the client's question is in an area of the attorney's practice. Wilson notes that the time line for working with the clients should fit into any schedule.[1]

Pro Bono or "Low Bono" is a Common Practice for Needy Clients in Rural North Carolina

Small town lawyers often provide services for clients who cannot pay, in part due to their strong connection to the community. The practice of North Carolina attorneys in small communities giving assistance to clients who are unable to pay is illustrated by John Gehring, who has practiced in Walnut Cove, North Carolina, since 1968. Gehring says that being a country lawyer enables him to practice law without having to punch a clock or count pennies, and that when he performs services without an expectation of compensation he frequently will become that family's lawyer. Gehring gave an example of a couple who came to see him in the 1980s so that he could prepare a will for them. He spent three hours with the couple and at the end of the conference they asked him how much they owed him. He told them that he had prepared the will for free. Subsequent to the *pro bono* work, the couple, returned for Gehring to represent them when two of their three children were killed in a car accident, "because he was their lawyer." While Gehring had no expectation of being paid for the preparation of the will, his willingness to work with this family did bring him a substantial case.

Gerry Collins, who has a general practice in Murphy, discussed providing services to clients at a low fee, also known as "low bono." Collins, who has been practicing since 1980, says that he has seen the need increase since the economic downturn in 2009. He believes that for some clients who cannot afford to pay him, charging an extremely modest rate—something he thinks they can afford to pay—provides a sense of dignity to clients. He gave an example of preparing a will, power of attorney, and health care power of attorney for a needy client and charging the client $50. The client was "tickled to death." Collins says that he is particularly sympathetic to elderly clients who do not have much money and need wills and powers of attorney.

Though not *pro bono*, in other cases where a client has been paying regularly, but the client clearly is struggling to pay the fee, Collins will discount the fee as "client consideration." Collins has tried to benefit the clients who have been paying with a fee discount. In addition, Collins understands that in certain types of cases, when the fee has been underestimated, that likely the remaining work for the client will be done *pro bono*. Collins stated that he performs *pro bono* or low fee work "out of feeling for the person sitting across the table from you who can't afford the work, and you can come in on a Saturday—not taking away from your other work—and get it done." Collins also mentioned the small town common occurrence of having people in the grocery store stop and ask his advice because folks know that you are "the" lawyer. Collins is confident that the lawyers in Clay and Cherokee Counties are all providing similar *pro bono* or low fee work for the needy citizens of those counties.

Both Collins and Anderson frequently spend time on the telephone talking to clients, knowing that they will not get paid, that the telephone call will not generate any representation, yet they spend time with those clients giving them help and guidance. Occasionally, even when there is no expectation of receiving anything in return for that help and guidance, the client will bring in a nonmonetary gift. Anderson has been given cookies, a homemade cake, and on one occasion venison. A client brought Collins a paper bag full of ears of corn in return for the preparation of a will.

Attorneys Provide Extended Representation for Needy Clients

In addition to advice and "low bono" work, attorneys in rural North Carolina are representing clients on a *pro bono* basis. Chris Callahan, an attorney from Rutherford County, has been a volunteer for many years and has been nominated for several *pro bono* awards. Callahan's service is more in the nature of what other attorneys would call extended service in that he actually represents the clients, and is not just giving advice to the client. Callahan's referrals come from Pisgah Legal Services, so he knows that the clients are truly needy. Callahan has represented clients in a variety of areas, but two cases that came to mind were ones that involved rent-to-own mobile homes. In one case, the client knew she was not able to pay. When the tenant told the landlord, he evicted her, threw her belongings out of the mobile home, and disposed of them. The landlord also would not return the tenant's security deposit. Callahan represented the tenant by suing the landlord for wrongful disposal of the client's property and for failure to follow the statute governing the return of her security deposit. Callahan sent the landlord discovery, including requests to admit, which the defendant failed to answer. Once Callahan noticed the case for a hearing on his summary judgment motion, the landlord hired an attorney. Because of the unanswered requests to admit, the client was able to obtain a settlement of a few thousand dollars. The settlement, without having to pay an attorney, was significant to his client, and took Callahan about ten hours of work.

In another matter, Callahan represented an elderly couple who unknowingly became part of a continuing scam by a well-known local citizen when they purchased a mobile home. The landlord would sell elderly clients a mobile home with a down payment of about $1,000, and then with modest monthly rent-to-own payments. One of the aspects of the scam was that the clients could not see the property before it was purchased. Of course, when these clients saw the property for the first time, they found that it was uninhabitable. Callahan believes that many of the rent-to-own scams that target the elderly are an attempt to avoid the landlord tenant laws. Callahan says that with about three hours of work and threatening to sue the landlord, he was able to get a return of the client's money. The landlord was later prosecuted.

Callahan noted that our justice system sometimes teeters on the edge of being unfair because impoverished citizens do not have access to lawyers who can help balance out the cost that the legal system sometimes requires.

Conclusion

Rural communities need the assistance of attorneys willing to provide *pro bono* services. There are many ways for attorneys throughout North Carolina to provide that assistance. Help can be provided in as little as one hour a

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Profiles in Specialization—Afi Johnson-Parris

By Denise Mullen, Assistant Director of Legal Specialization

I recently had an opportunity to talk with Afi Johnson-Parris, a board certified specialist in family law, who practices in Greensboro. Afi attended the University of Miami on a ROTC scholarship, earning an undergraduate degree in computer information systems in 1994. Upon graduation, she served as an officer in the Air Force, and earned an MBA in technology management. Upon completion of her active duty service, Afi received her law degree from the University of Virginia. She joined Kilpatrick Stockton LLP in Atlanta and focused her practice on complex civil litigation. She relocated to Greensboro in 2006 to practice employment law, along with civil litigation, at Smith Moore Leatherwood LLP. Following a series of fortunate events that brought Afi her first family law case, she shifted her practice to family law and veteran's benefits.

Johnson-Parris

Practicing family law brought a renewed sense of purpose, and Afi dedicated her legal work to helping families in need. Afi became board certified in family law in 2013, joining Ward Black law the same year. Afi's experience and dedication to family law issues have given her some unique opportunities to impact her community. She joined the North Carolina Equal Access to Justice Commission in 2015. Following are some of her comments about certification, her family law practice, and her commitment to improving access to justice in North Carolina.

Q: Why did you pursue certification?

I wanted to show that I was committed to this area of practice and an expert in the field by taking the next step of certification. I also wanted to challenge myself. Many of the people that I aspire to be like in this area of the law are specialists. I'm just following in their footsteps and heeding the advice they've been so gracious to give.

Q: How did you prepare for the examination?

I read the statutes that applied. I read the latest NCBA family law section case updates and newsletters. Then I studied the Judge's Bench Book. I had actually used one of the mentors on the list provided by the State Bar. I gave Justin Mauney a call and asked him how he studied. He suggested the Bench Book, a resource I hadn't thought to use. It was exactly what I needed to cover a lot of material in a short amount of time.

Q: Was the certification process valuable to you in any way?

Yes, I was really gratified by the support that I received from the colleagues that I reached out to for references. It's nice to know you have the respect of your colleagues and the judges. I learned a lot by preparing for and taking the exam. I was happy about all that I did know and humbled by how much I didn't know. Even after I passed the exam, I was aware of how much more learning I had to do. Being certified has certainly given me some confidence that I have a solid knowledge of family law.

Q: Has certification been helpful to your practice?

I gain a lot of knowledge from the specialist-only CLEs that are offered. It's been a good marketing tool to be able to tout my expertise in this area of law. Although I haven't been practicing as long as many lawyers in this area, I am at least able to show that I am knowledgeable through taking the extra step to be certified.

Q: How does your certification benefit your clients?

I think it gives me some credibility with other family law attorneys and the court. The trust that colleagues have in me and in my ability helps get cases settled and that helps my clients. It also means that I'm held to a higher standard of continuing legal education which is beneficial to my clients because I'm motivated to continue learning about this area of law as it evolves. A lawyer who knows what she's doing is always helpful to clients.

Q: Are there any hot topics in your specialty area right now?

We're watching with interest the impact that same sex marriage will have on this area of law. Many perceive that structurally things will be the same, but we wonder if in reality there will be differences in how a case actually progresses and the law applies. Alienation of Affection and Criminal Conversation claims are also interesting in that there has been some success defending against these actions on Constitutional grounds at the trial court level, but there have not been cases that progressed through the appellate courts sufficiently to make a statewide impact on these laws.

Q: How has your work in family law contributed to your interest in equal access to justice issues?

In my daily work I see over and over how impactful it is for individuals who do not have access to good legal representation. I see individuals struggle and know that if they had a good lawyer, things may have turned out very differently for them. In addition to my work on the *pro bono* committee for the Commission, I am also serving as the President of the Greensboro Bar Association. In that role, I am working to set up a strong *pro bono* program that would provide legal representation in some of these gap areas. The initial focus will be on expunctions. I wanted to start with something that's relatively simple and formulaic. We'll provide training for the attorneys and meet this need in the community before expanding the program.

Q: What would you say to encourage other lawyers to pursue excellence in their careers, including board certification?

I would encourage other lawyers to be open to opportunities for personal career growth as well as opportunities to magnify the impact you can have on your community. *Pro bono* work is a good way to do that because it is invigorating and can remind you of what's good about being a lawyer. In many ways, *pro*

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Lawyers Receive Professional Discipline

Disbarments

The DHC disbarred **Sir-Christopher Anderson** of Wake Forest. Anderson misappropriated entrusted funds, engaged in the unauthorized practice of law during an administrative suspension, and made false representations to the State Bar.

Peter C. Capece of Lincolnton surrendered his license and was disbarred by the Wake County Superior Court. Capece admitted that he misappropriated in excess of $1.5 million he held as trustee and guardian for a minor.

Marty S. McConchie, formerly of Chapel Hill, surrendered his license and was disbarred by the Wake County Superior Court. McConchie misappropriated entrusted funds totaling at least $1,275.13.

The State Bar Council disbarred **Stanley Mitchell** of Winston-Salem. Mitchell acknowledged that he had sex with a client.

Suspensions & Stayed Suspensions

Robert J. Howell of Raleigh was suspended by the Wake County Superior Court following his arrest in South Carolina on charges including attempted murder, kidnapping, burglary, and possession of cocaine.

The DHC suspended **Tracey Cline** of Durham for five years. Cline was the elected district attorney of Durham County until she was removed from office in 2012 pursuant to N.C. Gen. Stat. §7A-66. The DHC stayed the disciplinary proceeding while she appealed her removal from office. Cline filed pleadings containing false and outrageous statements about a judge and made false representations in court filings in an attempt to obtain confidential prison visitation records. After two years of active suspension, including credit for the time she has not practiced law since her removal from office, Cline may petition for a stay of the balance of the suspension.

The DHC suspended **Wallace Respess** of Lenoir for two years. Respess had sex with a client, loaned money to the client, and communicated with an opposing party who was represented by counsel. After serving six months of the suspension, Respess may apply for a stay of the balance.

Thomasine E. Moore of Jacksonville was suspended by the DHC for three years. Moore did not properly deposit and maintain entrusted funds for a client, did not reconcile her trust account quarterly, disbursed entrusted funds on behalf of clients in amounts exceeding the amounts she had on deposit for them, did not maintain sufficient funds in her trust account for clients, and deposited mixed funds in her operating account instead of her trust account. The suspension is stayed for three years upon Moore's compliance with enumerated conditions.

John C. Johnston of Jefferson did not supervise an employee who stole entrusted funds and did not comply with trust accounting rules. The DHC suspended him for three years. The suspension is stayed for three years upon Johnston's compliance with enumerated conditions.

The DHC suspended **Robert M. Gallant** of Matthews for two years. Gallant did not timely file federal and state income tax returns from 2007 through 2013. The suspension is stayed for two years upon Gallant's compliance with enumerated conditions.

The DHC suspended **Christopher R.S. Boothe** of Charlotte for two years. Boothe did not timely file federal and state income tax returns for 2012 and 2013 and did not timely pay state income tax for 2012 and 2013. The suspension is stayed for two years upon Boothe's compliance with enumerated conditions.

Reprimands

The Grievance Committee reprimanded **Antwoine Edwards** of Sanford. Edwards falsified a document allowing Indigent Defense Services (IDS) to make direct deposits to pay a licensed counselor for case-related services. Edwards was also untruthful in his initial response to the Grievance Committee. The Grievance Committee considered as mitigating factors that Edwards did not attempt to obtain any payment from IDS and that his conduct did not cause actual harm.

The Grievance Committee reprimanded **Holly Dowd** of Charlotte. Dowd assisted two out-of-state law firms in the unauthorized practice of law and made a false statement in her response to the grievance.

Nichole Greene of Cherryville was reprimanded by the Grievance Committee. Greene improperly implied to two prosecution witnesses that she was a disinterested party. She also told a witness who was present in court pursuant to a prosecution subpoena that he could leave and need not return.

The Grievance Committee reprimanded **Douglas Hall** of Morganton. Hall agreed to be a participating attorney in an unregistered prepaid legal services plan. By accepting fees to provide legal services to customers of the plan, he shared a fee with a nonlawyer and assisted in the unauthorized practice of law.

James Jorgensen of Raleigh was reprimanded by the Grievance Committee. Jorgensen did not communicate with his collection agency client, did not exercise diligence in his handling of one or more of his client's cases, and was slow in disbursing money he held in trust for a client.

The Grievance Committee reprimanded **Bobby Khot** of Raleigh. Knot agreed to be a participating attorney in an unregistered prepaid legal services plan. By accepting fees to provide legal services to customers of the plan, he shared a fee with a nonlawyer and assisted in the unauthorized practice of law.

The Grievance Committee reprimanded **F. Grey Powell** of Raleigh. Powell assisted an out-of-state law firm in the unauthorized practice of law.

Transfers to Disability Inactive Status

Katherine L. Jones of Raleigh and **Jesse Rouse III** of Fayetteville were transferred to disability inactive status by the chair of the Grievance Committee.

Mary Alexander Reed was transferred to disability inactive status by the DHC.

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The Enlightened Lawyer: Overcoming Stress and Creating Balance

By Dr. Geralyn Datz

You've already been at the office for nine hours. The senior partner is on your case about a research memo you haven't had a chance to begin. That difficult client who insists on calling several times a week to complain about everything under the sun is at it again. Oh, and you've got a brief due tomorrow and you have no idea how you're going to finish it on time. You're exhausted and overwhelmed. It's only Monday!

The Environment and Culture of Law

Most people have no idea how they get "burned out" or why. It's hard to grasp that we could actually harm ourselves while trying to work hard or helping others. This is a very real—and very misunderstood—problem in the legal profession.

The practice of law can be so all-encompassing that there doesn't seem to be an "off" switch—irrespective of the practice environment (sole practitioner, large firm, small firm) or practice area (criminal, corporate, entertainment, immigration, health, family, personal injury, real estate, tax, intellectual property, labor, or international). The boundaries of personal, work, family, and spiritual life may cease to exist, either temporarily or permanently. That can take an enormous toll on a person. When the toll becomes toxic to health and well-being, this is called "burnout."

It is important to understand why the legal profession is uniquely positioned to take a toll on a human being. Being a lawyer places one in a unique environment of "demandingness"—from the clients who are distressed, self-focused, and sometimes entitled, to the employers who expect top-quality, super-human results. Also a daily foe is an uncontrolled, high-contact, often urgent schedule that does not understand daycare pickups, birthdays, vacations, sporting events, or sleep. Lawyering can be a hyper-stressful setting where the rewards are few and far between. While some cases may be won, the time between "wins" can be long and arduous. Sometimes a "no-win" mediation or ambiguous success can leave a lawyer feeling over-compromised and empty. There is always the pressure to perform, to log hours, and to appear "together" despite chaotic circumstances.

Finally, the context of practicing law is based on an adversarial paradigm, often involving some conflict, dispute, or wrongdoing. Sometimes there is resolution, but not always. Cases are won and lost through the distortion of reality. This can create a tainted reality for the practicing attorney. Legal cases and clients themselves pertain to social deviations, misbehavior, law breaking, mistreatment, and injustice. There is a side to the world, your city, and your workplace that may be sinister. It is inspiring to overcome the odds, bring justice where there is none, and contribute to a precedent. However, at other times it can feel like you against the world. The outcome of a case can be dark and unfair, and there are other compromises that must be made in the interest of income, time, or tenure in the job.

Humans, as a group, tend to fare poorly under these circumstances.

Are You in Balance?

In the same way that we need air, water, and food to survive, our minds need certain conditions to feel vital and healthy. We need to feel as if we have accomplished something, that we have a purpose, that we are loved and understood, and that we have "down" time away from intense stress. When we do not have these opportunities, we become out of balance.

When we are out of balance, we often try to create balance in ways that will never achieve it. We create doses of pleasure by overeating (particularly carbohydrates and "junk" food) or by drinking alcohol. We isolate and stay sedentary, thinking we need

more rest when, in fact, we should exercise.

We seek outward relief and escape from recreational drugs when we should be turning inward and creating peace and new habits. We ignore the sources of support that would normally bring us relief (spouses, children, family, parents, friends, even pets!) because we are in a "bad mood," judgmental, or just too exhausted to socialize. We structure our time so we can't take a break, or feel too drained to reach out to our spiritual community when we need replenishment. Under extreme stress we tend to make poor and impulsive decisions. Some turn to sexual infidelity or take risks (such as fast driving or aggressive behavior), which release temporary "feel good" hormones and neurotransmitters but are ultimately self-sabotaging.

When our levels of stress become toxic, this can progress to burnout. Burnout is a state of overwhelming, long-term exhaustion and diminished interest in work. Professional symptoms of burnout include depression, cynicism, boredom, loss of compassion, and discouragement. The problem of burnout results from working long hours with limited resources, experiencing ambiguous success, and having contact with difficult clients.

The opposite of burnout is engagement. Engagement is the state of feeling energized, effective, and connected to one's life, career, and surroundings.

Which category do you fall into?

The Effects of Stress

Stress can become toxic to our bodies and mental health. Constant exposure to adversity or stressful work conditions can activate our fight-flight-freeze response. This is a biological response that, when used in small doses, is very helpful. It helps in the courtroom when you need to be on your feet and convincing. It can help you be aggressive in a meeting, and it gives you the edge over the competition when they aren't as passionate as you. It also can help you "walk away" from a bad negotiation rather than continuing to argue. The stress response can help you "freeze," when provoked, which may allow a better negotiating position later.

However, when the fight-flight-freeze system is constantly activated, health concerns may follow. The body and mind become depleted by the constant flux of hormones (cortisol) and neurotransmitters (adrenalin and epinephrine). Healthy tissues are degraded in the body, such as cardiac tissue. The immune system is suppressed. Sleep patterns change and lessen. Fatigue increases due to the constant rushes of stress hormones. Digestion changes and the body's ability to lose weight is reduced. Sex drive decreases. Headaches, depression, and panic attacks increase.

The effects of chronic stress often bring people to the doctor, but that "stress" usually carries other names—insomnia, impotence, constipation, frequent colds or flu, weight gain, fatigue, uncontrollable temper, high blood pressure, canker sores, ulcers, eczema, psoriasis, nightmares, chest pains, anxiety attacks, infertility, concentration problems, bodily pain, painful muscle tension or muscle spasms, and headaches.

Contrary to some beliefs, you don't have to have a diagnosed mental health condition to be affected by stress and burnout. Stress and burnout have their own independent effects on the body and mind. But if another mental health problem is present, the stress and effects of burnout are going to make the original problem worse because any remaining emotional and physical resources that the person has will be expended with the additional effects of chronic stress and burnout. Burnout and stress will actually hasten a depressive episode, a drug relapse, or chronic pain, and increase the frequency of panic attacks. That is why it is so important to address the signs of burnout as soon as they appear.

Taming Burnout

If you are experiencing the effects of chronic stress and burnout, there is hope. One method is to begin looking at your "energetic bank accounts," consisting of the physical, emotional, and spiritual areas in your life. I encourage and coach clients to take an inventory of their physical health, their emotional state, and spiritual connectedness.

Ask yourself the following questions:

• How is your health? Your energy level? What is your weight and strength level?

• How do you feel emotionally? Are you getting your needs met in relationships? At work?

• How connected are you to feeling like your work makes a difference? Is your work a meaningful path for you? Are you connected to any kind of faith, healing, charity, or spiritual community?

If your answers are not what you wish them to be, it is important to start making "deposits" into these areas of your life.

For example, physical health can be changed by paying attention to eating habits and activity levels. Exercise is crucial to regulation of stress hormones, sleep, appetite, and energy levels.

Emotional health can be refueled by increasing positive social interactions, learning meditation and relaxation techniques, attending psychotherapy or counseling, and learning time management and assertiveness skills (e.g., learning how to say no!).

Spiritual practices can be enhanced formally or informally through re-identification with religious beliefs, attendance at services, or spending time acknowledging a higher power or developing connectedness and mindfulness. The method must always match the person's preferences and needs. This is often the most challenging part of overcoming burnout: changing behaviors. Assistance from an experienced professional can help.

The importance of a program like the North Carolina Lawyer Assistance Program (LAP) cannot be underscored enough. It is crucial to have support available from people in your profession, confidentially and continuously available. The LAP staff are all clinically trained, seasoned professionals. They are easy to talk to and not pressuring. They know when a problem is serious and needs immediate help, and when someone just needs to talk. Asking for help is hard, but the LAP program makes it easy. The LAP team knows all the best resources and can easily demystify the process of treatment support and recovery. They help people *change* and take control of their lives again. They will literally save months of extended suffering and many hours of searching for answers (and might just save your life).

The LAP program is a tremendous resource that should not be a last resort. Frequently in my mental health practice I hear clients tell me they waited until things were really bad before coming to see me. Why? Why do we wait so long for help? Help can be given at any stage of suffering, but certainly it makes sense to use resources that are useful BEFORE a problem becomes severe (from a physical and mental health perspective, as well as a familial, personal, and occupational standpoint). In the case of burnout, it is an avoidable phenomenon when the right steps are taken early in the process.

The journey from burnout to recovery is well described in Joan Borysenko's book,

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The Potential Pitfalls of Working for an Out-of-State Law Firm

By Joshua Walthall

Over the past few years the State Bar has seen an alarming increase in the number of grievance investigations opened against lawyers—particularly younger lawyers—charged with aiding out-of-state businesses or law firms in the unauthorized practice of law. The fact pattern is nearly always the same:

• A young lawyer anxiously looking for work sees an advertisement for an "of counsel" or "local counsel" position on craigslist.org or other website;

• The hiring firm is located in another state but wants to employ a local lawyer to provide legal services (usually debtor defense services, foreclosure assistance, post-conviction representation, or loan modification services) to North Carolina residents;

• The firm's office address is a UPS Store mailbox or virtual office space;

• The firm has the local lawyer sign a "partnership" or "of counsel" agreement that creates an at-will employment relationship wherein the local lawyer is a "partner" in name only and does not share in the profits or liabilities of the firm;

• The firm advertises on a website as able to provide legal services in North Carolina, often listing the local lawyer's name on its website;

• The firm charges North Carolina customers several thousand dollars for legal services and yet gives the local lawyer only a small fraction of the fee paid;

• Most of the legal and clerical work is completed by the out-of-state firm; and

• The local lawyer is asked to review, sign, or file a document and/or make a brief appearance in a North Carolina court on behalf of the out-of-state firm's client.

Unfortunately, this relationship often hurts everyone involved. The client is harmed by paying a clearly excessive fee to a law firm hundreds of miles away that often provides inadequate or nonexistent legal representation. The firm is pursued by the Authorized Practice Committee of the State Bar for engaging in the unauthorized practice of law in violation of N.C. Gen. Stat. § 84-4. And the local lawyer becomes the subject of a grievance investigation despite being paid very little and having minimal involvement in the case.

Rule 5.5(c)(4)

When confronted by the Authorized Practice Committee of the State Bar, the out-of-state entities will invariably claim that they are not engaged in the unauthorized practice of law because they have employed local counsel and, therefore, fall under the exception in Rule 5.5(c)(4). This exception provides that a "lawyer admitted to practice in another United States jurisdiction...does not engage in the unauthorized practice of law in this jurisdiction if the lawyer's conduct is in accordance with these Rules and the lawyer is associated in the matter with a lawyer admitted to practice in this jurisdiction who actively participates in the representation[.]" This argument ignores the general rule in Rule 5.5(b)(1) that prohibits a lawyer not licensed in North Carolina from maintaining "an office or other systematic and continuous presence in this jurisdiction for the practice of law." Indeed, comment 2 to Rule 5.5 clarifies that the exception in Rule 5.5(c)(4) does not authorize a lawyer not licensed in this jurisdiction to establish an office or other systematic and continuous presence in North Carolina without being admitted to practice here. Rule 5.5(c)(4) is an exception for occasional representation only.

Thus, in order for the relationship to be compliant with the rules, the local lawyer must be a legitimate member of the out-of-state law firm who controls and supervises North Carolina representations. In the alternative, the local lawyer must be actively participating in the representation, and the presence of the out-of-state firm cannot be systematic or continuous. Note: physical presence in North Carolina is not the only type of presence that can violate the "systematic or continuous" prohibition; such presence can be—and often is—maintained through a website.

In nearly all of the grievances brought before the State Bar in recent years, the local lawyer was not actively involved in the representation, and the out-of-state firm has maintained a systematic and continuous presence in North Carolina. This led the Authorized Practice Committee and the Grievance Committee to conclude, respectively, that the out-of-state firm violated N.C. Gen. Stat. § 84-4 by engaging in the unauthorized practice of law, and that the local lawyer violated Rule 5.5 by aiding in the unauthorized practice of law.

A Word on Interstate Law Firm Registration

Any firm that practices in North Carolina and in one or more other states must register as an "interstate law firm" with the North Carolina State Bar. However, such registration is not a loophole around Rule 5.5. Even when an out-of-state firm is registered as an interstate law firm with the State Bar, the local lawyer must still be actively participating in the representation, and no out-of-state lawyers may be providing legal services to North Carolina residents, regardless of the presence of the local lawyer.

Tips on Out-of-State Law Firm Job Offers

• Beware of legal jobs posted on craigslist.org—some are legitimate, many are not.

• Beware of firms that have no physical presence in North Carolina.

• Beware of firms that have little or no interview or screening process and seek to

hire quickly.

• Beware of out-of-state sole practitioners or small firms seeking to operate in multiple states.

• Beware of firms that mandate you accept certain clients and deny you the ability to exercise independent judgment in accepting or rejecting work.

• Beware of firms offering debtor defense services, foreclosure assistance, post-conviction representation, or loan modification services—some are legitimate, many are not.

• Beware of firms with addresses that are mail store drop boxes or virtual offices.

• Beware of businesses owned by friends or family—too many lawyers let their guard down when someone they think they "know" is offering them a job.

• Whenever an out-of-state firm is trying to hire you, do your research and determine:

• if the firm is registered as an interstate law firm with the North Carolina State Bar,

• what your role will be if you work for the firm,

• what the role of the out-of-state firm will be,

• what legal services will be offered and provided,

• how involved you will be in the representation and in communicating with the clients,

• what the clients will be charged versus what you will be paid,

• what type of online presence and reputation the firm has,

• what type of presence the firm is seeking to maintain in North Carolina, and

• what kind of reputation the firm has in its home state and nationally.

• Do not assume that a firm is legitimate simply because other North Carolina lawyers have worked or are working for the firm.

• When in doubt, call the State Bar for advice at 919-828-4620.

Conclusion

Complying with the prohibition on aiding unauthorized practice while working for a multi-state law firm is not impossible: thousands of North Carolina lawyers do it every year. But unfortunately, a small minority of lawyers get into trouble. This is not surprising. In an ultracompetitive legal market, more and more young lawyers are looking for jobs, and as times get desperate, they lower their standards and end up in trouble. So do your research, be careful, and use good judgment when considering a job with an out-of-state law firm. ■

Joshua Walthall is a deputy counsel with the North Carolina State Bar.

Disciplinary Department (cont.)

Reinstatements

On March 17, 2014, the DHC suspended **Elaine S. Kelley** of Fayetteville for four years for claiming travel expenses from the State of North Carolina that she did not incur. The order provided that after serving two years active suspension, including credit for time that she was suspended by the court beginning in May 2013, Kelley could petition for a stay of the balance. On June 16, 2015, the secretary signed an order staying the remaining period of suspension.

On March 3, 2014, the DHC suspended **Steven M. Cheuvront** of Morganton for two years. Cheuvront forged the initials of a prosecutor on two dismissals and filed the dismissals with the clerk of court. After serving one year of the suspension, he was eligible to petition for a stay of the balance upon showing compliance with enumerated conditions. The DHC allowed his petition for stay on April 30, 2015.

On December 18, 2009, the DHC disbarred **Hilton Mitchell**, who practiced law in Wilmington. Mitchell admitted that he misappropriated legal fees he should have delivered to his law firm employer. On June 15, 2015, a hearing panel of the DHC recommended denying Mitchell's petition for reinstatement.

On November 21, 2013, the DHC suspended **Tripp McKeny** of Salisbury for three years. The DHC found that McKeny committed gross trust account violations. The DHC order provides that, after serving one year of the suspension, McKeny would be eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions. The DHC denied McKeny's petition for a stay, concluding that McKeny was ineligible because he did not properly wind down his law practice when he was suspended.

On August 22, 2014, the DHC suspended **Robert E. Griffin** of Fuquay-Varina for three years. The order provides that Griffin can petition for a stay after serving six months of the suspension upon demonstrating compliance with enumerated conditions. The DHC denied Griffin's petition for a stay, concluding that Griffin was not eligible because he did not properly wind down his law practice and did not provide an accurate three-way reconciliation of his trust account.

Notice of Intent to Seek Reinstatement

Individuals who wish to note their concurrence with or opposition to this petition should file written notice with the secretary of the State Bar, PO Box 25908, Raleigh, NC 27611, before November 1, 2015.

In the Matter of Michael L. Yopp

Notice is hereby given that Michael L. Yopp of Dunn, North Carolina, intends to file a petition for reinstatement before the Disciplinary Hearing Commission of the North Carolina State Bar. Yopp surrendered his law license and was disbarred July 19, 2002, for misappropriating client funds for his own personal benefit, over-disbursing client funds, and failing to reconcile his trust account. Full restitution has been made by the petitioner. ■

Legal Specialization (cont.)

bono work saved my legal career when I wanted to stop practicing law. Once I dedicated myself to family law, the goal of board certification was a natural next step. I learned a lot just in the process of studying and attaining my certification. I also have access to a higher level of knowledge through the courses that are offered only for specialists in family law. ■

For more information on the State Bar's specialization programs, visit us online at nclawspecialists.gov.

Time Management and Billing: A Paralegal's Perspective

By Erica C. McAdoo

Time management and billing may seem like a run-of-the-mill, benign, mundane topic, but effective and efficient time management and billing is part of what separates the good paralegals from the great paralegals. It doesn't just help us get more done during the day. Rather—and perhaps more importantly—it allows us to produce higher quality work, communicate more effectively, maintain lower stress levels, grow professionally, exceed attorney expectations, and be proactive rather than reactive.

One of the first steps to achieving effective and efficient time management and billing is becoming and staying organized. There are many tools available to help with organization. Some of those include utilization of case management software, computer-based tasklists/checklists, sticky notes, and lists.

Many firms manage cases through use of computer-based case management programs/software such as Prolaw, Needles, etc. These programs can be configured to operate on a basic level to contain key case information, contact information, and major deadlines such as statutes of limitation. They can also be configured to guide the stages of each case and provide direction and pre-populated documents for each step and task to be completed during the life of the case.

Computer-based tasklists/checklists are usually created within, or generated by, case management software programs. Such lists are extremely useful and help with proactive case management and deadlines. One of the most important things to remember to do with these kinds of lists is to "work" the list. For example, if ten items are "past due" on the list, 20 items are "due" for Monday, 25 items for Tuesday, and five for Wednesday, assess all of the items on the list and re-date them based on a realistic determination of when the items are actually due and when they will likely be able to be addressed, while of course maintaining deadlines. If the "overdue" items are really overdue, i.e. there are missed deadlines, that is one issue; however, if the items are simply "overdue" because they were dated for the previous Friday but were unable to be completed because of time restraints, then it may make sense to re-date those items for a day in the present week when they will actually be likely to be accomplished. Also, as in the above example, if there are 20 items on the task list for Monday, but only ten of them absolutely have to be done that Monday, it may be beneficial for organizational and stress-reducing purposes to set some of the tasks out to Wednesday, as Wednesday only has five tasks showing as "due."

Other methods of organization used by firms and paralegals often include the creation and maintenance of paper files, use of handwritten "to-do" lists, and sticky notes. Even in today's computer-based world and paperless offices, these methods are still effectively used.

Another way to maximize available time and increase efficiency is to make conscientious choices regarding communication methods. At times, a phone call is a necessary tool to quickly discuss and finalize details, answer questions, and/or provide clarification. Other times, an email may be better as it is often faster and provides written documentation of matters discussed that can be useful in the future.

Yet another way to save time is utilization of electronic methods of service when possible. Although the State Rules of Civil Procedure do not have the same provisions for electronic service as the federal rules, counsel for all parties may be willing and even eager to consider electronic service for pleadings, discovery, and/or correspondence. From a paralegal perspective, sending an email with an attachment can be faster than printing copies of the document(s), printing cover letters and envelopes, and whatever else may be involved in finalizing the mailing. If the matter is in state court, consider requesting opposing counsel's consent to use electronic service methods, but make sure to document any agreements in writing and confirm all email addresses and persons to be copied on any emails. Use of a Stipulation of Acceptance of Electronic Service can be useful to document the details of counsels' acceptance of the utilization of electronic service, especially with cases involving a large number of parties or when a more formal agreement seems necessary or preferable.

In performing the process of responding to discovery, one can benefit from the application of effective and efficient time management and billing techniques. Depending on the type of case, issues involved in the case, number of available and/or potentially relevant documents, and number of parties, responding to discovery can feel mundane to overwhelming. There are multiple ways to accomplish this task. Some paralegals prefer to wait and begin drafting responses once all documents and information have been received from the client. This can be a very effective method as it allows the paralegal to have a more complete understanding of existing documents and information which can then be used to shape each written response. One of the drawbacks associated with this method is the risk that the client(s) will not return complete responses in a timely manner. This can lead to increased stress and complete domination of the paralegal's time while the paralegal scrambles to review previously existing file materials, formulate objections, and incorporate information and documents just received from the client. Then, if one case necessarily dominates all of the paralegal's time, other tasks often have to be pushed aside and other cases can fall behind. To help decrease the chances or intensity of a last minute scramble, it may be helpful to prepare discovery responses in stages as responsive information and documents are identified and/or obtained.

For paralegals with a billable hours requirement, utilizing and capturing time accurately, effectively, and ethically is almost always a top priority. Even if the law firm or the type of law practiced by the firm is not one with billable hours requirements, time is likely still a val-

ued commodity. In the usually fast-paced, demanding field of law, and especially as a paralegal, developing techniques to best utilize and capture time becomes not only helpful, but also necessary. Some techniques are learned by trial and error, others develop organically over time, and still others are learned by consciously adopting techniques championed by others. Not all techniques are ideal for every paralegal, as their effectiveness can vary depending on factors such as caseload, paralegal personality type, learning styles, and type of law practiced at the firm; however, there are some techniques that have proven successful for many paralegals over the years.

One such technique is to move quickly from one project to the next. If you are working from a to-do list or a task list, whether hand-written or computer-based, be conscious and aware of the next project on the list. As one project is being completed and/or as the billing entry for that project is being entered, prepare to jump immediately into the next task. This technique is likely to be best accomplished if the paralegal is working on tasks based on some sort of list. A list ordered by priority helps provide structure, drive, organization, and direction, and prevents the kind of loss of time between projects that can occur when trying to decide what needs to be done and/or what to do next. The less "lag time" a paralegal has between tasks, the more time the paralegal will be able to capture.

Another technique is to stay organized. Simply focusing on speed or efficiency can lead to mistakes or missed deadlines. Quality matters, and staying organized helps increase the likelihood that the paralegal will not only be efficient, but that their work will be of high quality. Initial production of high quality work generally means less "lost time" later spent fixing mistakes. Staying organized also helps prevent lost time while attempting to locate items or information in the file, or when trying to determine what needs to be done next. Staying organized often involves many of the techniques already discussed such as the utilization of case management software and the utilization of to-do lists. While becoming and staying organized does take some additional effort and may seem to take an exorbitant amount of time, ultimately it will increase efficiency and work quality, thus allowing for increased utilization rates and accurate, effective, and ethical capturing of paralegal time.

While effective and efficient time management and billing may come naturally for some paralegals, these skills more often take time to develop and perfect. At times, a paralegal may find that a previously sufficient technique is no longer as effective. Techniques often have to be adapted, expanded, or replaced in response to changes within the firm, the types of cases being handled by the firm, staffing, attorney preferences, etc. For this reason, being flexible, open-minded, and willing to adapt is a necessity. Other paralegals and paralegal organizations can be a great source for new ideas, solutions, and techniques for increasing the effectiveness and efficiency of a paralegal's time management and billing skills. With identification and conscientious implementation of select techniques, accurate, efficient, effective and ethical time management and billing can be accomplished. ■

Erica McAdoo is a North Carolina Certified Paralegal and currently works as a litigation paralegal at McAngus Goudelock & Courie in Raleigh. She is an MBA candidate at East Carolina University, and a member of the North Carolina State Bar's Paralegal Certification Committee.

In Memoriam

Thomas B. Anderson Jr.
Cary, NC

William Brantley Aycock
Chapel Hill, NC

Charlie Barnes Casper
Asheboro, NC

Lewis A. Cheek
Durham, NC

John D. Church
Shelby, NC

Robert Ezekiel Cooper
Chapel Hill, NC

Paul Parker Creech
Raleigh, NC

Timothy I. Finan
Goldsboro, NC

Scott Alexander Harper II
Charlotte, NC

Maurice M. Henkels Jr.
Efland, NC

John Robert Hooten
Oriental, NC

William Goff Jones
Charlotte, NC

Jonathan L. Jones
Morganton, NC

Kimberly J. Jones
Lumberton, NC

John Hosea Kerr III
Goldsboro, NC

James Webb Kiser
Charlotte, NC

James E. Lanning
Charlotte, NC

Cheryl Ann Marteney
New Bern, NC

Harry Corpening Martin
Asheville, NC

James H. McKinney
Greensboro, NC

David Stanley Orcutt
Wilson, NC

Larry Albert Outlaw
Raleigh, NC

Dillard Martin Powell
Topsail Beach, NC

Sheria Yvonne Reid
Raleigh, NC

Richard T. Rigsbee
Durham, NC

Norwood Robinson
Winston-Salem, NC

Carl Owen Smith Jr.
Rocky Mount, NC

Jerome Lafayette Smith
Kernersville, NC

Francis Blackwell Stith
New Bern, NC

Settlement Funds Received by NC IOLTA

Income

Though income from IOLTA accounts again decreased in 2014—by 5%, monthly—IOLTA income from IOLTA accounts in 2015 is not decreasing over that time period from last year, leading us to hope that we have finally hit bottom and will not continue the precipitous decreases. The better news is that we have received the funding that was included in the settlement with Bank of America announced by the Department of Justice in August 2014. That settlement included a minimum of $30 million allocated to IOLTA programs around the country for the provision of foreclosure prevention and community redevelopment legal services. Each program (54 jurisdictions) was allocated $200,000, and the remainder of the $30 million was distributed based on poverty population (as federal Legal Services Corporation funds are distributed). NC IOLTA has received $842,896.15. Though these funds are restricted, we do have five strong legal aid programs that have been doing significant foreclosure work. As other funds for this work are decreasing or ending, these funds will provide significant support to continue this important work.

Grants

Beginning with 2010 grants, we have limited our grant-making to a core group of (mainly) legal aid providers. Even with that restriction and using almost $3 million in reserve funds over five years, grants had dramatically decreased (by over 40%). For three years, from 2012 through 2014, we were able to keep grants steady at ~$2.3 million using funds from reserve and from court awards designated for civil legal aid. For 2015 the trustees had to reduce grants further (by 19%) to ~$1.9 million. We are using two thirds of our remaining reserve to make those grants, leaving approximately $245,000 in reserve.

State Funds

In addition to its own funds, NC IOLTA administers the state funding for legal aid on behalf of the NC State Bar. Total state funding distributed for the 2013-14 fiscal year was $3.5 million. The state budget adjustments for 2014-15 eliminated the appropriation for legal aid work (currently $671,250). We remain hopeful that state funds from filing fees for access to civil justice and domestic violence work will remain in the state budget when it is finalized. The Equal Access to Justice Commission and the NCBA continue to work to sustain and improve the funding for legal aid.

IOLTA Leadership

The State Bar Council appointed Charles Burgin and John McMillan as chair and vice-chair of the NC IOLTA Board of Trustees for 2015-16. Burgin, a former NC Bar Association president, is retired from private practice in Marion. McMillan, a former NC State Bar president, is in private practice in Raleigh and also currently serves on the Equal Access to Justice Commission. Both have served as NC IOLTA trustees for a number of years, and their continuity and knowledge of the NC IOLTA program and its grantees will be particularly valuable in these roles.

The council appointed three trustees. E. Fitzgerald Parnell was reappointed to a second three-year term, and Joseph Smith and Kerry Friedman were appointed as new trustees replacing Edward Broadwell and Michael Colombo, who are leaving the board after serving two three-year terms and serving as chair of the board of trustees.

• E. Fitzgerald (Jerry) Parnell is a former NC State Bar president from Charlotte where he is a partner at Poyner & Spruill. Jerry was a founding member of both the Chief Justice's Commission on Professionalism and the NC Equal Access to Justice Commission, and he has served on the board of his local legal aid organization. He has also served North Carolina well at the American Bar Association and is moving onto the ABA Board of Governors.

• Joseph A. Smith Jr. is a partner at Poyner Spruill where he concentrates his practice in the banking and financial services area. Previously he served as the North Carolina commissioner of banks for nearly ten years. As commissioner he led the agency charged with the supervision of banks and thrift institutions. Before being appointed commissioner of banks in 2002, Smith practiced corporate, securities, and banking law in New York, Connecticut, and North Carolina for 27 years, including nine years as general counsel and secretary of a North Carolina bank holding company. In addition, Smith has served as monitor of a settlement among five major financial institutions, the United States, and 49 states relating to the mortgage servicing practices of the institutions. His knowledge of banks and banking should serve IOLTA well.

• Kerry A. Friedman is a partner at Patla, Straus, Robinson & Moore in Asheville. Kerry has provided extensive service to Pisgah Legal Services in Asheville, including serving two three-year terms on the Pisgah board in the 1980s and again in the early 2000s, and serving as president of their board. He also served on the board and as president of Legal Services of North Carolina in the 1990s. He has been a *pro bono* attorney for legal aid for 33 years, leading the effort to formally organize the local bar's *pro bono* work into the Mountain Area Volunteer Attorney Program in 1983. In addition to his experience with legal aid, he will also bring us representation from the western part of the state. ■

Grantee Spotlight: State Bar honors Charlotte housing rights advocate and legal aid leader Ted Fillette

At its council meeting in Charlotte in July, the North Carolina State Bar presented its prestigious John B. McMillan Distinguished Service Award, which honors exemplary service to North Carolina's legal profession, to Theodore O. "Ted" Fillette, a leading advocate for the housing rights of poor North Carolinians and a leader of Charlotte's civil legal aid community for more than 40 years. Fillette currently serves as assistant director of IOLTA grantee, Legal Aid of North Carolina, and senior managing attorney of its Charlotte office.

Since 1973, Ted Fillette has been a practicing civil legal aid lawyer in North Carolina.

For all but one of those years, he has worked in Charlotte, providing free legal representation to low-income people confronting serious civil legal problems. Over his career, Fillette has established himself as one of the state's leading practitioners and fiercest advocates for the housing rights of the poor.

Ted has represented innumerable individual clients, served as counsel or co-counsel on precedent-setting cases in the state's highest courts and federal court, and fought in the policy arena to establish more just and equitable housing laws for all North Carolinians.

In his letter to the Bar supporting Fillette's nomination for the award, Henry E. Frye, North Carolina's first African-American supreme court chief justice, wrote of how he relied heavily on Fillette's expertise while attempting to reform the state's landlord-tenant laws as a member of the General Assembly in the '70s and '80s.

"Ted Fillette was the most dedicated and reliable resource for me during those years," Frye wrote. "I could rely upon him for, not only the accurate state of the current law, but also for information as to how the law operated in practice."

When Frye failed to reform the state's landlord-tenant law wholesale, Fillette convinced him to change the law piecemeal. "We were successful in doing so, and a lot of the credit was due to the hard work of Ted," Frye wrote. "His efforts to improve the law in North Carolina are worthy of national recognition!"

Fillette, a native of Mobile, Alabama, earned his bachelor's from Duke University in 1968 and then served in the Volunteers in Service to America program in Boston until 1970, when he started law school at Boston University. In 1973, after earning his juris doctorate, he came to Charlotte to start his career as a civil legal aid lawyer. That year, he joined the Legal Aid Society of Mecklenburg County as a staff attorney, a position he held until 1981, when he moved to New Bern to serve a one-year stint as litigation director at Pamlico Sound Legal Services. He returned to Charlotte in 1982 to work for Legal Services of Southern Piedmont as litigation director and deputy director, positions he held for the next 20 years.

In 2002, Legal Aid of North Carolina was founded when independent legal aid offices around the state joined forces to form a unified organization with a statewide mandate. Fillette joined the new organization as its assistant director and senior managing attorney of its Charlotte office, a position he holds to this day.

"Hundreds of thousands, if not millions, of low-income North Carolinians, who may never have met Ted, nevertheless owe him a debt of gratitude for his decades of dedicated advocacy," said George Hausen, executive director of Legal Aid of North Carolina.

To learn more about the John B. McMillan Distinguished Service Award, visit ncbar.com/programs/dsa.asp.

President's Message (cont.)

Some Parting Thoughts as I Enter the Fourth Quarter of My Term as Your President

I first became a State Bar councilor in 1986. I remember being greeted at my first meeting by Bob Baynes from Greensboro, who later became president of the State Bar. Bob told me that as a State Bar councilor I would work hard and read a lot; and that I would meet some really nice people and get to know some terrific lawyers. Bob was right on every count. Your State Bar councilors work very hard and are also among the very nicest people I have come to know.

The council prescribes and enforces high standards of professional conduct without intimidation or favor, and administers a comprehensive regulatory program for the benefit and protection of the public. This is the message I received as a new councilor in 1986, and it is the same message I deliver in 2015. The State Bar councilors represent the best of our profession. That is why it is a distinct honor to serve as your president.

Finally, I will end with what I said when I was sworn in as the 81st president of the State Bar—that lawyers do good things that touch peoples' lives. We are engaged meaningfully in practically every aspect of our society, in business, in government, and in all facets of the administration of justice. The vast majority of lawyers, more than 99% of us, act honestly and ethically each day for the benefit of our clients. Let's remember and take pride in the role of lawyers and judges in our society. That is why I am—and you should be—damn proud to be a lawyer. ■

Ronald L. Gibson is a partner with the Charlotte law firm of Ruff, Bond, Cobb, Wade & Bethune, LLP.

Access to Justice Partners: Duke Law School's Veterans Disability Assistance Project

When Michael Morgan met Christine Lehr, Duke Law '96, at a client intake meeting organized by Duke Law School's Veterans Disability Assistance Project (VDAP) in July 2009, he was homeless, destitute, and sick. Morgan, who served in Vietnam as a radio operator during an eight-year career in the US Navy, had several claims and appeals in process with the Veteran's Administration relating to his military service. "He was unable to pursue his career as a photographer due to myriad health problems, living in his truck, and was 'understandably frustrated' by long delays and repeated denials of his claims, said Lehr, a partner and the *pro bono* coordinator at DLA Piper in Raleigh, who had volunteered to supervise Duke Law students on veterans' disability claims.

Lehr supervised three successive student VDAP volunteers—Thomas Crosby '11, Ben Kastan '12, and Nick Atallah '14—as they worked on several separate claims and appeals on Morgan's behalf, including a hearing before the Board of Veterans' Appeals. The claims, including ones relating to post-traumatic stress disorder and neck and shoulder injuries, stemmed specifically from a beating Morgan sustained on a US naval base in Okinawa in 1972. "Who knew that it would take nearly five years, three law students, and countless hours for Mike to finally receive an award of 100% disability," said Lehr after the VA came to that conclusion last summer.

Michael Morgan said, "I'm a fighter and they helped me fight. Those Duke students, they pushed my claim through and got me the help I needed. I don't have to wonder about my housing situation, how to get money for food. I can concentrate on my health."

Amendments Pending Approval of the Supreme Court

At its meetings on April 17, 2015, and July 17, 2015 (unless otherwise noted), the council of the North Carolina State Bar voted to adopt the following rule amendments for transmission to the North Carolina Supreme Court for approval (for the complete text of all proposed rule amendments see the Spring and Summer 2015 editions of the *Journal* unless otherwise indicated):

Proposed Rules to Create a Procedure for Permanent Relinquishment of Membership in the State Bar

27 N.C.A.C. 1A, Section .0300, Election and Succession of Officers; Section .0400, Duties of Officers

Proposed new rules create a procedure for relinquishing membership in the State Bar. The effect of relinquishment is the loss of all privileges of membership in the State Bar and, should the person desire to practice law in North Carolina again, the requirement that the person apply to the North Carolina Board of Law Examiners as if for the first time. To include the relinquishment rules in an appropriate location within Subchapter 1A of the State Bar rules, the rules currently in Section .0300, *Election and Succession of Officers*, are moved to the beginning of Section .0400, which is renamed "*Election, Succession and Duties of Officers*." Section .0300 is renamed "*Permanent Relinquishment of Membership in the State Bar*," and devoted to the proposed rules on permanent relinquishment.

Proposed Amendments to the Rules Governing the Training of Law Students

27 N.C.A.C. 1C, Section .0200, Rules Governing Practical Training of Law Students

The proposed rule amendments eliminate the requirement that supervising lawyers in a law school clinic be full-time faculty members. This allows law schools to employ, on a part-time basis, adjunct faculty to supervise students in a clinic.

Proposed Amendments to the Rule on *Pro Bono* Practice by Out–of-State Lawyers

27 N.C.A.C. 1D, Section .0900, Procedures for Administrative Committee

The proposed amendments allow an out-of-state lawyer employed by a nonprofit corporation rendering legal services to indigent persons to obtain *pro bono* practice status during the pendency of the lawyer's application for admission to the North Carolina State Bar. In addition, the proposed amendments clarify that an out-of-state lawyer employed as in-house counsel for a business organization with offices in North Carolina may petition and qualify for *pro bono* practice status.

Proposed Amendments to the Rules of the Board of Legal Specialization

27 N.C.A.C. 1D, Section .1800, Hearing and Appeal Rules of the Board of Legal Specialization; Section .1900, Rules Concerning the Accreditation of Continuing Legal Education for the Purposes of the Board of Legal Specialization

The proposed amendments to the specialization hearing and appeal rules explain that an "incomplete application" does not include an application with respect to which fewer than five completed peer review forms have been timely filed with the Board of Legal Specialization; increase the time an applicant has to review a failed examination after receiving notice of failure; and shorten the time an applicant has to file a petition for grade review.

The proposed amendments to the specialization CLE rules make the rules consistent with the general CLE accreditation rules by allowing an applicant for specialty certification or recertification to satisfy the CLE requirements by attending prerecorded, simultaneously broadcast, and online programs.

Proposed Amendments to Rule 5.6 of The Rules of Professional Conduct

27 N.C.A.C. 2, Rules of Professional Conduct

The proposed amendments to Rule 5.6, *Restrictions on Right to Practice*, clarify that the prohibition on participation in a settlement agreement that restricts a lawyer's right to practice applies to settlement agreements between private parties and the government, not just to agreements between private parties. A proposed amendment to the official comment explains that the prohibition does not apply to a plea agreement or other settlement of a criminal matter or to a disciplinary case in which the accused is a lawyer.

Proposed Amendments to the Rules of Professional Conduct

27 N.C.A.C. 2, The Rules of Professional Conduct

In the Spring 2014 edition of the *Journal*, proposed amendments to several Rules of Professional Conduct were published for comment. The amendments were proposed after study of the ABA Ethics 20/20 Commission's recommended amendments to the ABA Model Rules of Professional Conduct in response to changes in technology and globalization. The proposed amendments to the North Carolina Rules included amendments to the titles of three rules. Unfortunately, the title amendments were not forwarded to the Supreme Court when the proposed rule amendments were sent to the Court for approval. Amendments to the text of the rules were approved by the Court on October 2, 2014. The following amendments to rule titles are now pending approval of the Court:

Rule 5.3, *Responsibilities Regarding Nonlawyer* ~~*Assistants*~~ ***Assistance***

Rule 5.5, *Unauthorized Practice of Law*~~;~~ ***Multijurisdictional Practice of Law***

Rule 7.3, ~~*Direct Contact with Potential*~~ ***Solicitation of*** *Clients*

For the complete text of the related amendments to the Rules of Professional Conduct, see the Spring 2014 edition of the *Journal* or visit the State Bar website.

Proposed Amendments

At its meeting on July 17, 2015, the council voted to publish the following proposed rule amendments for comment from the members of the Bar:

Proposed Amendments to the Rules Governing the Board of Law Examiners

27 N.C.A.C. 1C, Section .0100, Board of Law Examiners

Proposed amendments to Rule .0101, *Election*, are recommended by the North Carolina Board of Law Examiners to modernize the outdated rule and to conform provisions of the rule to current practice in regard to the appointment of members of the board.

Proposed amendments to Rule .0105, *Approval of Law Schools*, are recommended by the Board of Law Examiners to eliminate the experience requirement from the rule. The rule was amended last year to allow a graduate of a non-ABA accredited law school to be considered for admission to the State Bar if the graduate was previously admitted to the bar of another jurisdiction and remained in good standing with that bar for ten years.

.0101 Election

(a) ~~At the first meeting of the council, it shall elect as members of the Board of Law Examiners, two members of the State Bar to serve for a term of one year from July 1, 1933; and two members of the State Bar to serve for a term of two years from July 1, 1933; and two members of the State Bar to serve for a term of three years from July 1, 1933. The council, at its regular meeting, in April of each year, beginning in 1934, shall elect two members of the Board of Law Examiners to take office on the 1st day of July of the year in which they are elected, and such members shall serve for a term of three years or until their successors are elected and qualified. Beginning with the year 1935 and every third year thereafter the council shall elect three members for a term of three years or until their successors are elected and qualified.~~ **The Board of Law Examiners shall consist of 11 members. The members are elected for three-year terms to serve until expiration of the term, resignation, death, or other cause for termination of members' service.**

(b) ~~No member of the council shall be a member of the Board of Law Examiners, and no member of the Board of Law Examiners shall be a member of the council.~~ **The council, in making appointments to the Board of Law Examiners, shall make appointments for no more than four consecutive three-year terms, not counting any partial term which may have previously been served.**

(c) The council shall elect board members for three-year terms at its annual meeting in October, with the term of service to begin on the following January 1. Election of a board member to complete an unexpired term shall be conducted at the next meeting of the council following the termination of service by the member and the giving of notice of the vacancy.

(d) When vacancies occur for the Board of Law Examiners, notice shall be published in the official publication of the North Carolina State Bar giving the date by which any person desiring to make a suggestion for someone to be considered as a possible member of the Board of Law Examiners must submit the name to the North Carolina State Bar.

(e) In the selection process for an appointment to the Board of Law Examiners, the council may consult with current members of the Board of Law Examiners and consider factors such as geography, practice area, gender, and racial diversity.

(f) No member of the council shall be a member of the Board of Law Examiners.

(g) Any former Board of Law Examiners member being considered for appointment as emeritus member shall have served on the Board of Law Examiners for not less than five years.

.0105 Approval of Law Schools

Every applicant for admission to the NC State Bar must meet the requirements set out in at least one of the numbered paragraphs below:

(1)...

(4) The applicant holds an LL.B. or JD degree from a law school that was approved for licensure purposes in another state of the United States or the District of Columbia, **and** was licensed in such state or district ~~and, at the time of the application for admission to the North Carolina State Bar, has been an active member in good standing of the Bar in that state or District for the 10 years immediately preceding the application~~.

Proposed Amendments to the Rules on Reinstatement from Inactive Status and Administrative Suspension

27 N.C.A.C. 1D, Section .0900, Procedures for Administrative Committee

Proposed amendments to the rules on reinstatement from inactive status and administrative suspension eliminate from the CLE requirements for reinstatement the condition that 5 of the 12 CLE credit hours required for each year of inactive or suspended status must be earned by taking practical skills courses. Sponsors and the Board of CLE do not designate courses as practical skills courses; therefore, it is difficult for petitioners for reinstatement to identify courses that will satisfy this requirement.

.0902 Reinstatement from Inactive Status

(a) Eligibility to Apply for Reinstatement.

...

(c) Requirements for Reinstatement.

(1) Completion of Petition.

...

(4) Additional CLE Requirements.

If more than 1 year has elapsed between the date of the entry of the order transferring the member to inactive status and the date that the petition is filed, the member must complete 12 hours of approved CLE for each year that the member was inactive up to a maximum of 7 years. The CLE hours must be completed within 2 years prior to filing the petition. For each 12-hour increment, 6 hours may be taken online~~;~~ **and** 2 hours must be earned by attending courses in the areas of professional responsibility and/or professionalism~~; and 5 hours must be earned by attending courses determined to be practical skills courses by the Board of Continuing Legal Education or its designee~~. If during the period of inactivity the member complied with mandatory CLE requirements

The Process

Proposed amendments to the Rules of the North Carolina State Bar are published for comment in the *Journal*. They are considered for adoption by the council at the succeeding quarterly meeting. If adopted, they are submitted to the North Carolina Supreme Court for approval. Amendments become effective upon approval by the Court. **Unless otherwise noted, proposed additions to rules are printed in bold and underlined; deletions are interlined.**

Comments

The State Bar welcomes your comments regarding proposed amendments to the rules. Please send your written comments to L. Thomas Lunsford II, The North Carolina State Bar, PO Box 25908, Raleigh, NC 27611.

of another state where the member is licensed, those CLE credit hours may be applied to the requirements under this provision without regard to whether they were taken during the 2 years prior to filing the petition.

(5) Bar Exam Requirement If Inactive 7 or More Years.

...

(d) Service of Reinstatement Petition.

...

.0904 Reinstatement from Suspension

(a) Compliance Within 30 Days of Service of Suspension Order.

...

(d) Requirements for Reinstatement.

(1) Completion of Petition.

...

(3) Additional CLE Requirements.

If more than 1 year has elapsed between the effective date of the suspension order and the date upon which the reinstatement petition is filed, the member must complete 12 hours of approved CLE for each year that the member was suspended up to a maximum of 7 years. The CLE must be completed within 2 years prior to filing the petition. For each 12-hour increment, 6 hours may be taken online~~;~~ **and** 2 hours must be earned by attending courses in the areas of professional responsibility and/or professionalism~~; and 5 hours must be earned by attending courses determined to be practical skills courses by the Board of Continuing Legal Education or its designee~~. If during the period of suspension the member complied with mandatory CLE requirements of another state where the member is licensed, those CLE credit hours may be applied to the requirements under this provision without regard to whether they were taken during the 2 years prior to filing the petition.

(4) Bar Exam Requirement If Suspended 7 or More Years.

...

(e) Procedure for Review of Reinstatement Petition.

...

Proposed Amendments to the Rules and Regulations Governing the Administration of the CLE Program

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program; Section .1600, Regulations Governing the Administration of the Continuing Legal Education Program

Proposed amendment to Rule .1517, *Exemptions*, clarifies that the exemption from CLE requirements for members who teach law-related courses at professional schools has reference only to graduate level courses.

Proposed amendments to Rule .1513, *Fiscal Responsibility*, and Rule .1606, *Fees*, increase the CLE credit hour fee (the attendee or sponsor fee) from $3 to $3.50 per hour of approved credit and allocated the additional $0.50/credit hour to the North Carolina Equal Access to Justice Commission to support the administration of the activities of the commission. The effective date of the amendments will be January 1, 2016.

.1517 Exemptions

(a) Notification of Board.

...

(e) Law Teachers. An exemption from the requirements of these rules shall be given to any active member who does not practice in North Carolina or represent North Carolina clients on matters governed by North Carolina law and who is:

(1) …

(3) A full-time teacher of law-related courses at a **graduate level** professional school accredited by its respective professional accrediting agency.

(f) Special Circumstances Exemptions.

...

.1513 Fiscal Responsibility

All funds of the board shall be considered funds of the North Carolina State Bar and shall be administered and disbursed accordingly.

(a) Maintenance of Accounts:

...

(d) All revenues resulting from the CLE program, including fees received from attendees and sponsors, late filing penalties, late compliance fees, reinstatement fees, and interest on a reserve fund shall be applied first to the expense of administration of the CLE program including an adequate reserve fund; provided, however, that a portion of each sponsor or attendee fee, in an amount to be determined by the council ~~but not to exceed $1.00 for each credit hour~~, shall be paid to the Chief Justice's Commission on Professionalism **and to the North Carolina Equal Access to Justice Commission** for administration of the activities of ~~the commission~~ **these commissions**. Excess funds may be expended by the council on lawyer competency programs approved by the council.

.1606 Fees

(a) Sponsor Fee - The sponsor fee, a charge paid directly by the sponsor, shall be paid by all sponsors of approved activities presented in North Carolina and by accredited sponsors located in North Carolina for approved activities wherever presented, except that no sponsor fee is required where approved activities are offered without charge to attendees. In any other instance, payment of the fee by the sponsor is optional. The amount of the fee, per approved CLE hour per active member of the North Carolina State Bar in attendance, is ~~$3.00~~ **$3.50**. This amount shall be allocated as follows: $1.25 to the Board of Continuing Legal Education to administer the CLE program; $1.00 to the Chief Justice's Commission on Professionalism; ~~$.050~~ **$1.00** to the North Carolina Equal Access to Justice Commission; and $0.25 to the

State Bar to administer the funds distributed to the commissions. The fee is computed as shown in the following formula and example which assumes a 6-hour course attended by 100 North Carolina lawyers seeking CLE credit:

Fee: ~~$3.00~~ **$3.50** x Total Approved CLE Hours (6) x Number of NC Attendees (100) = Total Sponsor Fee (~~$1800~~ **$2100.00**)

(b) Attendee Fee - The attendee fee is paid by the North Carolina attorney who requests credit for a program for which no sponsor fee was paid. An attorney will be invoiced for any attendees fees owed following the submission of the attorney's annual report form pursuant to Rule .1522(a) of this subchapter. Payment shall be remitted within 30 (thirty) days of the date of the invoice. The amount of the fee, per approved CLE hour for which the attorney claims credit, **is** ~~$3.00~~ **$3.50**. This amount shall be allocated as follows: $1.25 to the Board of Continuing Legal Education to administer the CLE program; $1.00 to the Chief Justice's Commission on Professionalism; ~~$.050~~ **$1.00** to the North Carolina Equal Access to Justice Commission; and $0.25 to the State Bar to administer the funds distributed to the commissions.

It is computed as shown in the following formula and example which assumes that the attorney attended an activity approved for 3 hours of CLE credit:

Fee: ~~$3.00~~ **$3.50** x Total Approved CLE hours (3.0) = Total Attendee Fee (~~$9.00~~ **$10.50**)

(c) Fee Review - The board will review the level of the fee at least annually and adjust it as necessary to maintain adequate finances for prudent operation of the board in a nonprofit manner. The council shall annually review the assessments for the Chief Justice's Commission on Professionalism and the North Carolina Equal Access to Justice Commission and adjust them as necessary to maintain adequate finances for the operation of the commissions.

(d) Uniform Application and Financial Responsibility –

...

Proposed Amendments to the Rules on Certification of Paralegals

27 N.C.A.C. 1G, Section .0100, The Plan for Certification of Paralegals

Proposed amendments to the standards for certification of paralegals add the disciplinary suspension or revocation of an occupational or professional (nonlegal) license and the unauthorized practice of law to the list of conduct that may be considered by the board when determining whether an applicant is honest, trustworthy, and fit to be certified as a paralegal.

.0119 Standards for Certification of Paralegals

(a) To qualify for certification as a paralegal, an applicant must ….

(b) Alternative Qualification Period.

...

(c) Notwithstanding an applicant's satisfaction of the standards set forth in Rule .0119(a) or (b), no individual may be certified as a paralegal if:

(1) the individual's certification or license as a paralegal in any state is under suspension or revocation;

(2) the individual's license to practice law in any state is under suspension or revocation;

(3) the individual ~~has been~~

(A) was convicted of a criminal act that reflects adversely on the individual's honesty, trustworthiness, or fitness as a paralegal~~;~~; ~~or~~

(B) ~~has~~ engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation~~;~~;

(C) engaged in the unauthorized practice of law; or

(D) has had a nonlegal state or federal occupational or professional license suspended or revoked for misconduct;

~~Provided~~ however, the board may certify an applicant **whose application discloses conduct described in Rule .0119(c)(3)** if, after consideration of mitigating factors, including remorse, reformation of character, and the passage of time, the board determines that the individual is honest, trustworthy, and fit to be a certified paralegal; or

(4) the individual is not a legal resident of the United States.

(d) ...

Proposed Amendments to the Trust Accounting Rule in the Rules of Professional Conduct

27 N.C.A.C. 2, Rules of Professional Conduct

In the Spring and Summer 2015 editions of the *Journal*, proposed amendments to Rule 1.15, *Safekeeping Property* (and its subparts, Rule 1.15-1, Rule 1.15-2, and Rule 1.15-3) and to Rule 8.5, *Misconduct,* were published. The amendments are proposed primarily to add requirements that will facilitate the early detection of internal theft and errors. A new subpart, Rule 1.15-4, *Trust Account Management in Multiple-Lawyer Firm*, creates a procedure whereby a firm with two or more lawyers may designate a firm principal to serve as the "trust account oversight officer" to oversee the administration of the firm's general trust accounts in conformity with the requirements of Rule 1.15.

In response to comments received after publication, additional amendments are proposed to adjust the recordkeeping requirements to accommodate "paperless" work environments. The proposed amendments permit a lawyer to create and maintain records electronically without any immediate printing requirements as long as the records otherwise comply with Rule 1.15-3. The proposed amendments also permit the use of secure, digitally encrypted, electronic signatures on reconciliation reports and reviews.

Only the paragraphs of Rule 1.15-3, *Records and Accountings*, that contain additional proposed amendments are published below. Although no changes to the text of proposed new Rule 1.15-4 are proposed, a proposed new title for the rule appears below. For the text of all proposed amendments to Rule 1.15 and its subparts see the Spring and

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Summer 2015 editions of the *Journal*.

Rule 1.15-3 Records and Accountings

(a) Check Format...

(b) Minimum Records for Accounts at Banks. The minimum records required for general trust accounts, dedicated trust accounts, and fiduciary accounts maintained at a bank shall consist of the following:

(1) ...;

(2) all cancelled checks or other items drawn on the account, or ~~printed~~ digital images thereof furnished by the bank, showing the amount, date, and recipient of the disbursement, and, in the case of a general trust account, the client name, file number, or other identifying information of the client from whose ~~client~~ balance ~~against which~~ each item is drawn, provided, that:...

(d) Reconciliations of General Trust Accounts.

(1) Quarterly Reconciliations. ~~At least quarterly, the individual client balances shown on the ledger of a general trust account must be totaled and reconciled with the current bank statement balance for the trust account as a whole~~. For each general trust account, a ~~printed~~ reconciliation report shall be prepared at least quarterly. Each reconciliation report shall show all of the following balances and verify that they are identical:

(A) The balance that appears in the general ledger as of the reporting date;

(B) The total of all subsidiary ledger balances in the general trust account, determined by listing and totaling the positive balances in the individual client ledgers and the administrative ledger maintained for servicing the account, as of the reporting date; and

(C) The adjusted bank balance, determined by adding outstanding deposits and other credits to the ending balance in the monthly bank statement and subtracting outstanding checks and other deductions from the balance in the monthly statement.

(2) Monthly Reconciliations.

...

(3) The lawyer shall review, sign, date, and retain a ~~printed~~ copy of the reconciliations of the general trust account for a period of six years in accordance with Rule 1.15-3(g).

(e) Accountings for Trust Funds.

...

(i) Reviews.

(1) Each month, for each general trust account, dedicated trust account, and fiduciary account, the lawyer shall review the bank statement and cancelled checks for the month covered by the bank statement.

(2) Each quarter, for each general trust account, dedicated trust account, and fiduciary account, the lawyer shall review the statement of costs and receipts, client ledger, and cancelled checks of a random sample of representative transactions completed during the quarter to verify that the disbursements were properly made. The transactions reviewed must involve multiple disbursements unless no such transactions are processed through the account, in which case a single disbursement is considered a transaction for the purpose of this paragraph. A sample of three representative transactions shall satisfy this requirement, but a larger sample may be advisable.

(3) The lawyer shall take the necessary steps to investigate, identify, and resolve within ten days any discrepancies discovered during the monthly and quarterly reviews.

(4) A report of each monthly and quarterly review, including a description of the review, the transactions sampled, and any remedial action taken, shall be prepared. The lawyer shall sign, date, and retain a copy of the report and associated documentation for a period of six years in accordance with Rule 1.15-3(g).

(j) Retention of Records in Electronic Format.

Records required by Rule 1.15-3 may be created, updated, and maintained electronically, provided

(1) the records otherwise comply with Rule 1.15-3, to wit: electronically created reconciliations and reviews that are not printed must be reviewed by the lawyer and electronically signed using a "digital signature" as defined in 21 CFR 11.3(b)(5);

(2) printed and electronic copies of the records in industry-standard formats can be made on demand; and

(3) the records are regularly backed up by an appropriate storage device.

Rule 1.15-4 ~~Trust Account Management in Multiple-Lawyer Firm~~ Alternative Trust Account Management Procedure for Multi-Member Firm

(a)...

Comment [following Rule 1.15-4]

[1] ...

Responsibility for Records and Accountings

[17] The rules permit the retention of records in electronic form. A storage device is appropriate for backing up electronic records if it reasonably assures that the records will be recoverable despite the failure or destruction of the original storage device on which the records are stored. For storage methods not solely under the control of the lawyer, *see* 2011 FEO 6.

~~[17]~~[18] ...

[Renumbering remaining paragraphs.] ■

Committee Considers Lawyer's Duty When Third Party Steals from Trust Account

Council Actions

At its meeting on July17, 2015, the State Bar Council withdrew 2014 Formal Ethics Opinion 5, *Advising a Client About Social Media* (adopted 7/25/14), and adopted the ethics opinions summarized below:

2014 Formal Ethics Opinion 5 (substitute opinion)

Advising a Civil Litigation Client about Social Media

Opinion rules a lawyer must advise a civil litigation client about the legal ramifications of the client's postings on social media as necessary to represent the client competently. The lawyer may advise the client to remove postings on social media if the removal is done in compliance with the rules and law on preservation and spoliation of evidence.

2014 Formal Ethics Opinion 9

Use of Tester in an Investigation that Serves a Public Interest

Opinion rules that a private lawyer may supervise an investigation involving misrepresentation if done in pursuit of a public interest and certain conditions are satisfied.

2015 Formal Ethics Opinion 4

Disclosing Potential Malpractice to a Client

Opinion analyzes a lawyer's professional responsibilities when she discovers that she made an error that may adversely impact the client's case.

Ethics Committee Actions

At its meeting on July 16, 2015, the Ethics Committee withdrew proposed 2014 FEO 11, *Notice to Parents Prior to Seeking Nonsecure Custody Order*, in light of recently adopted legislation that resolves the issue of professional responsibility raised in the proposed opinion. No substitute proposed opinion will be issued. The committee voted to ask a subcommittee to continue to study proposed 2014 FEO 1, *Protecting Confidential Client Information When Mentoring*. The committee also voted to publish four new proposed opinions.

The comments of readers on the proposed opinions are welcomed. Comments received before October 22, 2015, will be considered at the next meeting of the Ethics Committee. Comments may be emailed to ethicsadvice@ncbar.gov.

Proposed 2015 Formal Ethics Opinion 5
Authority to Discuss Former Client's Appellate Case with Successor Lawyer
July 16, 2015

Proposed opinion provides that in post-conviction or appellate proceedings, a discharged lawyer may discuss a former client's case and turn over the former client's file to successor counsel if the former client consents or the disclosure is impliedly authorized.

NOTE: As a general rule, lawyers representing a client in the pre-conviction stages of a case have more personal contact and receive confidential information that is not relevant to or shared with post-conviction lawyers. While the Rules of Professional Conduct are the same for each, the application of the relevant rules must be guided by the unique relationship that both the pre-conviction and the post-conviction lawyer have with the client. As a result, this opinion only applies to the situation where this issue arises between a discharged appellate lawyer and the subsequent appellate lawyer.

Inquiry:

Lawyer A is appointed to represent a criminal defendant in an appellate matter. Subsequently, Lawyer A withdraws from the representation of the client and Lawyer B is appointed successor appellate counsel.

Must Lawyer A obtain the former client's consent prior to discussing the client's case with Lawyer B or prior to turning over the former client's file to Lawyer B?

Opinion:

No. Unless the former client specifically instructed Lawyer A not to discuss his case with Lawyer B or not to give his appellate file to Lawyer B, such actions are permissible without the former client's express consent.

CPR 300 (1981), an ethics opinion adopted under that now superseded North Carolina Code of Professional Responsibility (in effect from 1973 to 1985), provides that a lawyer who withdraws from a client's case may not discuss the client's confidences and secrets with the client's successor lawyer unless the client gives express consent. Although the Code has been superseded, the ethics opinions that were issued under the Code still provide guidance on issues of professional conduct except to the extent that a particular opinion is overruled by a subsequent opinion or by a provision of the current North Carolina Rules of Professional Conduct. *See* NC Rules of Prof'l Conduct, NC State Bar *Lawyer's Handbook* (editor's note) (2014).

CPR 300 analyzes a lawyer's duty of confidentiality pursuant to the Code's Disciplinary Rule 4-101, *Preservation of Confidences and Secrets of a Client*. DR 4-101(B)(1) provides that, with certain exceptions, a lawyer may not knowingly reveal "a confidence or secret of his client." The duty to protect client confidences has been modified since the time of the Code and is currently embodied in Rule 1.6 of the Rules of Professional Conduct, *Confidentiality of Information*.

Rule 1.6(a) provides that a lawyer "shall not reveal information acquired during the professional relationship with a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b)." Thus, under the current confidentiality rule, a lawyer may disclose client information if the client consents or the disclosure is impliedly authorized. A disclosure is impliedly authorized if the disclosure is appropriate to carry out the representation and there are no client instructions or special circumstances that limit the lawyer's authority. Rule 1.6 [cmt. 5].

Public Information

The Ethics Committee's meetings are public, and materials submitted for consideration are generally NOT held in confidence. Persons submitting requests for advice are cautioned that inquiries should not disclose client confidences or sensitive information that is not necessary to the resolution of the ethical questions presented.

Providing a client's new appellate counsel with information about the client's case, and turning over the client's appellate file to the successor appellate counsel, is generally considered appropriate to protect the client's interests in the appellate representation.

Proposed 2015 Formal Ethics Opinion 6
Lawyer's Professional Responsibility When Third Party Steals Funds from Trust Account
July 16, 2015

Proposed opinion rules that when funds are stolen from a lawyer's trust account by a third party who is not employed or supervised by the lawyer, and the lawyer was managing the trust account in compliance with the Rules of Professional Conduct, the lawyer is not professionally responsible for replacing the funds stolen from the account.

NOTE: This opinion is limited to a lawyer's professional responsibilities and is not intended to opine on a lawyer's legal liability.

Inquiry #1:

John Doe, a third party unaffiliated with Lawyer, created counterfeit checks that were identical to Lawyer's trust account checks. John Doe made the counterfeit checks, purportedly drawn on Lawyer's trust account, payable to himself and presented the counterfeit checks for payment at Bank. Bank honored some of the counterfeit checks. As a consequence, client funds held by Lawyer in his trust account were utilized for an unauthorized purpose. Lawyer properly supervised all nonlawyer staff participating in the record keeping for the trust account. Lawyer also maintained the trust account records and reconciled the trust account as required by Rule 1.15-3. Lawyer had no knowledge of the fraud and had no opportunity to prevent the theft.

Does Lawyer have a professional responsibility to replace the stolen funds?

Opinion #1:

No.

A lawyer who receives funds that belong to a client assumes the responsibilities of a fiduciary to safeguard those funds and to preserve the identity of the funds by depositing them into a designated trust account. Rule 1.15-2, RPC 191, and 97 FEO 9. The responsibilities of a fiduciary include the duty to ensure that the funds of a particular client are used only to satisfy the obligations of that client. RPC 191 and 97 FEO 9. Rule 1.15-3 requires a lawyer to keep accurate records of the trust account and to reconcile the trust account. A lawyer has an obligation to ensure that any nonlawyer assistant with access to the trust account is aware of the lawyer's professional obligations regarding entrusted funds and is properly supervised. Rule 5.3.

If Lawyer has managed the trust account in substantial compliance with the requirements of the Rules of Professional Conduct (*see* Rules 1.15-2, 1.15-3, and 5.3) but, nevertheless, is victimized by a third party theft, Lawyer is not required to replace the stolen funds. If, however, Lawyer failed to follow the Rules of Professional Conduct on trust accounting and supervision of staff, and the failure is a proximate cause of theft from the trust account, Lawyer may be professionally obligated to replace the stolen funds. *Compare* RPC 191 (if a lawyer disburses against provisionally credited funds, the lawyer is responsible for reimbursing the trust account for any losses caused by disbursing before the funds are irrevocably credited).

Under all circumstances, Lawyer must promptly investigate the matter and take steps to prevent further thefts of entrusted funds. Lawyer must seek out every available option to remedy the situation including researching the law to determine if Bank is liable;[1] communicating with Bank to discuss Bank's liability; asking Bank to determine if there is insurance to cover the loss; considering whether it is appropriate to close the trust account and transfer the funds to a new trust account; and working with law enforcement to recover the funds.

Inquiry #2:

Prior to learning of the fraud and theft from the trust account, Lawyer issued several trust account checks to clients and/or third parties for the benefit of a client. Despite the theft, there are sufficient total funds in the trust account to satisfy the outstanding checks. However, because of the theft, funds belonging to other clients will be used if the outstanding checks are cashed.

What is Lawyer's duty to safeguard the remaining funds in the trust account?

Opinion #2:

Lawyer must take reasonable measures to ensure that funds belonging to one client are not used to satisfy obligations to another client. Such reasonable measures include, but are not limited to, requesting that Bank issue stop payments on outstanding trust account checks; providing Bank with a list of outstanding checks and requesting that Bank contact Lawyer before honoring any outstanding checks; and determining if Bank is liable and, if so, demanding the outstanding checks be covered by Bank. If Lawyer determines Bank is not liable or liability is unclear, Lawyer must maintain the status quo and prevent further loss by not issuing new trust account checks. If payment will be stopped on the outstanding checks, Lawyer must contact the payees and alert them to the problem.

Inquiry #3:

Assume the same facts in Inquiry #2 except there are insufficient funds in the trust account to satisfy the outstanding checks. Must Lawyer deposit funds into the trust account to ensure that the outstanding checks are not presented against an account with insufficient funds?

Opinion #3:

No. In addition to the remedial measures listed in Opinion #2, Lawyer should notify the payees if Lawyer knows that the checks will not clear.

Inquiry #4:

Hacker gains illegal access to Lawyer's computer network and electronically transfers the balance of the funds in Lawyer's trust account to a separate account that is controlled by Hacker. Lawyer's trust account now has a zero balance. Lawyer has written several trust account checks to clients and/or third parties for the benefit of clients. Because of the theft, there are insufficient funds in the trust account to satisfy the outstanding checks.

Does Lawyer have a professional responsibility to replace the stolen funds?

Opinion #4:

No, Lawyer is not obligated to replace the stolen funds provided he has taken reasonable care to minimize the risks to client funds by implementing reasonable security measures in compliance with the requirements of Rule 1.15.

Rule 1.15 requires a lawyer to preserve client property, to deposit client funds entrusted to the lawyer in a separate trust account, and to manage that trust account according to strict recordkeeping and procedural requirements. To fulfill the fiduciary obligations in Rule 1.15, a lawyer managing a trust account must use reasonable care to minimize the risks to client funds on deposit in the trust account. 2011 FEO 7.

In 2011 FEO 7 the Ethics Committee opined that a lawyer has affirmative duties to educate himself regularly as to the security risks of online banking; to actively maintain end-user security at the law firm through safety practices such as strong password policies and procedures, the use of encryption and security software, and the hiring of an information technology consultant to advise the lawyer or firm employees; and to insure that all staff members who assist with the management of the trust account receive training on and abide by the security measures adopted by the firm.

If Lawyer has taken reasonable care to minimize the risks to client funds, Lawyer is not ethically obligated to replace the stolen funds. If, however, Lawyer failed to use reasonable care in following the Rules of Professional Conduct on trust accounting and supervision of staff, and the failure is a proximate cause of theft from the trust account, Lawyer may be professionally obligated to replace the stolen funds.

Inquiry #5:

Lawyer is retained to close a real estate transaction. Prior to the closing, Lawyer obtains information relevant to the closing, including the seller's name and mailing address. Lawyer also receives into his trust account the funds necessary for the closing. Lawyer's normal practice after the closing is to record the deed and disburse the funds. Lawyer then mails a trust account check to the seller in the amount of the seller proceeds.

Hacker gains access to information relating to the real estate transaction by hacking the email of one of the parties (lawyer, realtor, or seller). Hacker then creates a "spoof" email address that is similar to realtor's or seller's email address (only one letter is different). Hacker emails Lawyer with disbursement instructions directing Lawyer to wire funds to the account identified in the email instead of mailing a check to seller at the address included in Lawyer's file as previously instructed. Lawyer follows the instructions in the email without first implementing security measures such as contacting the seller by phone at the phone number included in Lawyer's file to confirm the wiring instructions. After the closing and disbursement, the true seller calls Lawyer and demands his funds. Lawyer goes to Bank to request reversal of the wire. Bank refuses to reverse the wire and will not cooperate or communicate with Lawyer without a subpoena.

While pursuing other legal remedies, does Lawyer have a professional responsibility to replace the stolen funds?

Opinion #5:

Yes. Lawyers must use reasonable care to prevent third parties from gaining access to client funds held in the trust account. As stated in Opinion #4, Lawyer has a duty to implement reasonable security measures. Lawyer did not verify the disbursement change by calling seller at the phone number listed in Lawyer's file or confirming seller's email address. These were reasonable security measures that, if implemented, could have prevented the theft. Lawyer is, therefore, professionally responsible and must replace the funds stolen by Hacker. If it is later determined that Bank is legally responsible, or insurance covers the stolen funds, Lawyer may be reimbursed.

Inquiry #6:

While pursuing the remedies described in Opinion #2, may Lawyer deposit his own funds into the trust account?

Opinion #6:

Yes.

Generally, no funds belonging to a lawyer shall be deposited in a trust account or fiduciary account of the lawyer. Rule 1.15-2(f). The exceptions to the rule permit the lawyer to deposit funds sufficient to open or maintain an account, pay any bank service charges, or pay any tax levied on the account. *Id.* The exceptions were expanded in 1997 FEO 9 to include the deposit of lawyer funds when a bank would not route credit card chargeback debits to the lawyer's operating account. These exceptions to the prohibition on commingling enable lawyers to fulfill the fiduciary duty to safeguard entrusted funds.

Therefore, notwithstanding the prohibition on commingling, Lawyer may deposit his own funds into the trust account to replace the stolen funds until it is determined whether the Bank is liable for the loss, insurance is available to cover the loss, or the funds are otherwise recovered. If Lawyer decides to deposit his own funds, he must ensure that the trust accounting records accurately reflect the source of the funds, the reason for the deposit, the date of the deposit, and the client name(s) and matter(s) for which the funds were deposited.

Inquiry #7:

With regard to all of the situations described in this opinion, what duties does Lawyer owe to the clients whose funds were stolen?

Rules, Procedure, Comments

All opinions of the Ethics Committee are predicated upon the Rules of Professional Conduct as revised effective March 1, 2003, and thereafter amended, and referred to herein as the Rules of Professional Conduct (2003). The proposed opinions are issued pursuant to the "Procedures for Ruling on Questions of Legal Ethics." 27 N.C.A.C. ID, Sect .0100. Any interested person or group may submit a written comment or request to be heard concerning a proposed opinion. Any comment or request should be directed to the Ethics Committee at PO Box 25908, Raleigh, NC 27611, by September 30, 2015.

Captions and Headnotes

A caption and a short description of each of the proposed opinions precedes the statement of the inquiry. The captions and descriptions are provided as research aids and are not official statements of the Ethics Committee or the council.

Opinion #7:

Lawyer must notify the clients of the theft and advise the clients of the consequences for representation; help the clients to identify any source of funds, such as bank liability and insurance, to cover their losses; defer a client's matter (by seeking a continuance, for example) if necessary to protect the client's interest; and explain to third parties or opposing parties as necessary to protect the client's interests. If stop payments are issued against outstanding checks, Lawyer must take the remedial measures outlined in Opinions #1 and #2 to protect the client's interest. Finally, Lawyer must report the theft to the North Carolina State Bar's Trust Accounting Compliance Counsel.

Endnote

1. *See e.g.* N.C. Gen. Stat. §25-4-406.

Proposed 2015 Formal Ethics Opinion 7
Prior Business Relationships Permit In-Person Solicitation
July 16, 2015

Proposed opinion rules that the business relationships with health care professionals created by a lawyer previously employed as a health care consultant constitute prior professional relationships within the meaning of Rule 7.3(a) thus permitting the lawyer to directly solicit legal employment by in-person, live telephone, or real-time electronic contact with the health care professionals.

Inquiry:

Smith is a lawyer and also holds a graduate degree. Following her admission to the North Carolina bar, Smith worked as a health care consultant for a health care consulting firm. During her years as a consultant, she developed a number of professional relationships with health care professionals. Recently, Smith joined a law firm where she concentrates on health law. She now wishes to contact directly those health care professionals with whom she developed professional relationships when she was a health care consultant. Her purpose in doing so is to inform the health care professionals of her career change and her availability to provide legal services in health care related matters.

Rule 7.3(a) prohibits a lawyer from soliciting professional employment from a potential client for the lawyer's pecuniary gain via "in-person, live telephone, or real-time electronic contact..." Among the exceptions to the rule, a lawyer is not prohibited from soliciting professional employment by direct contact if the person contacted "has a family, close personal, or *prior professional relationship* with the lawyer" [emphasis added].

Are Smith's prior relationships with health care professionals "prior professional relationships" as that term is used in Rule 7.3(a), thereby allowing her to engage in in-person solicitation of the health care professionals?

Opinion:

Yes.

The purpose of the prohibition on in-person solicitation is to prevent undue influence, intimidation, and over-reaching by the lawyer. Comment [2] to Rule 7.3 provides:

> There is a potential for abuse when a solicitation involves direct in-person, live telephone, or real-time electronic contact by a lawyer with someone known to need legal services....The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

The rule specifically exempts prior relationships because it is unlikely that a lawyer will engage in abusive practices when the lawyer has a family, close personal, or prior professional relationship with the person she is contacting. *See* Rule 7.3, cmt [5].

"Professional relationship" is not defined in the Rules of Professional Conduct. However, the Ethics Committee previously opined that a lawyer, who is also a certified public accountant working for an accounting firm, may call or visit a prospective client to solicit legal business if the lawyer established a "prior professional relationship" with the individual as a client of the accounting firm. *See* 2000 FEO 9. This indicates that the phrase "prior professional relationship" as used in Rule 7.3(a) is not limited to prior client-lawyer relationships, but includes business relationships such as client-accountant relationships. Therefore, the business relationships Smith developed while working as a health care consultant constitute "prior professional relationships" within the meaning of Rule 7.3(a), and Smith may directly contact these individuals to solicit legal employment.

Proposed 2015 Formal Ethics Opinion 8
Representing One Spouse on Domestic and Estate Matters after Representing Both Spouses Jointly
July 16, 2015

Proposed opinion considers when a lawyer, who previously represented a husband and wife jointly, may represent one spouse in subsequent estate and domestic matters.

Inquiry #1:

Over many years, Lawyer represented Husband and Wife[1] jointly on various matters including the preparation of reciprocal wills, closing on the purchase of the marital home, and creation of a corporation for a family-owned business. Lawyer does not currently represent Husband and Wife on any matter.

Husband and Wife are having marital difficulties and have separated. Husband would like Lawyer to provide certain legal services to Husband individually.

Husband would like Lawyer to represent him in the domestic matter. The marital home and the corporate assets are subject to equitable distribution.

May Lawyer represent Husband in the domestic matter against Wife?

Opinion #1:

Yes.

Rule 1.9(a) provides that a lawyer who has formerly represented a client in a matter is prohibited from representing another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent. Under this former client conflict rule, there are two questions that must both be answered affirmatively to conclude there is a conflict of interest: (1) is the current legal matter the same or substantially related to the former legal matter(s) upon which the former client was represented, and (2) are the current client's interests materially adverse to the interests of the former client.

In the current inquiry, the answer to the second question is clearly "yes": Husband's and Wife's interests in the domestic matter are materially adverse.

However, the answer to the first question—whether the domestic matter is the same or substantially related to the prior joint representations of Husband and Wife—is not so clear. Although the current domestic matter is not the same matter as any of the prior representations handled by Lawyer for Husband or Wife jointly, it must still be determined whether the domestic matter is "substantially related" to any of the prior representations.

Comment [3] to Rule 1.9 states that mat-

ters are substantially related "if they involve the same transaction or legal dispute or if there otherwise is a substantial risk that information as would normally have been obtained in the prior representation would materially advance the client's position in the subsequent matter." To analyze "substantial relationship," therefore, the nature of the transaction or legal dispute and the risk of misuse of the confidential information of a former client must both be examined.

There is a presumption in joint or common representation that there is no confidentiality as between the commonly represented clients. In the section entitled "Special Considerations in Common Representation" in the comment to Rule 1.7, *Conflict of Interest: Current Clients*, comment [31] explains:

> The lawyer should, at the outset of the common representation and as part of the process of obtaining each client's informed consent, advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation should be kept from the other.

Unless, during the joint representations of Husband and Wife, Lawyer received information from Wife that he was specifically instructed by Wife not to share with Husband, and that information would materially advance Husband's position in the domestic matter, there is no risk of misuse of confidential information of Wife in the present representation because the information received by Lawyer during the joint representations was shared. In light of the legal matters involved in the joint representations (wills, real estate closing, creation of closely held corporation), it is unlikely that Lawyer received any confidential information from Wife individually that she instructed him not to share with Husband and that would materially advance Husband's position in the domestic matter; however, Lawyer must analyze this question based upon his specific experience during the joint representations.

Assuming that the question of the misuse of confidential information is answered in the negative, the remaining question is whether the current domestic matter involves the same transaction or legal dispute in issue in any of the prior joint representations.

The federal court in *Plant Genetic Sys., N.V. v. Ciba Seeds*, 933 F. Supp. 514, 518 (M.D.N.C. 1996), when applying the North Carolina Rules of Professional Conduct, held that the "substantially related test" requires a "virtual congruence of issues," and the relationship between the issues in the prior representation must be "patently clear." In the context of a motion to disqualify, the court found that "substantially related" has been interpreted to mean "identical" or "essentially the same." *Id.* The Ethics Committee applies the same analysis here.

The domestic matter is not "identical" or "essentially the same" as any of the prior matters upon which Lawyer jointly represented Husband and Wife. Therefore, Lawyer may represent Husband in the domestic matter against Wife.

In RPC 32 (1989) the Ethics Committee ruled that a lawyer who had jointly represented a husband and wife on a number of family matters, including will preparation and real estate closings, had a conflict of interest in representing the husband against the wife in a domestic action involving alimony and equitable distribution because the lawyer had previously represented the husband and wife on matters relevant to the spouses' financial circumstances and "[the lawyer] will necessarily have received confidential information relevant to the pending proceedings." To the extent that the holding in this opinion conflicts with the holding in RPC 32, RPC 32 is overruled.

Inquiry #2:

May Lawyer prepare a new will for Husband?

Opinion #2:

Yes, if there is a separation agreement between Husband and Wife waiving claims against each other's estates.

As noted in Opinion #1, Rule 1.9(a) prohibits a lawyer who has represented a client in a matter from representing another client in the same or a substantially related matter in which the new client's interests are materially adverse to those of the former client unless the former client consents. Lawyer's prior representation of Husband and Wife on the preparation of reciprocal wills constitutes the same matter as the preparation of a new will for Husband. However, once the couple has executed an agreement to waive their claims against each other's estates, the element of material adversity required for disqualification under Rule 1.9 is no longer present.

Inquiry #3:

Assume that in addition to the joint representation of Husband and Wife during the marriage, Lawyer also represented Wife individually on a criminal matter and as executrix of her mother's estate. The couple is seeking to divorce.

May Lawyer prepare a new will for Husband?

Opinion #3:

See Opinion #2.

Inquiry #4:

Assume the same facts as in Inquiry #3. May Lawyer represent Husband in the domestic matter against Wife?

Opinion #4:

Although the criminal law and estate administration matters are not the same or substantially related to the current domestic matter, regardless of the relationship between the legal matters, Rule 1.9(c) prohibits a lawyer from using a former client's confidential information to the disadvantage of the former client unless the information has become generally known. Therefore, if, during Wife's individual representation, Lawyer received any confidential information that could be used to the disadvantage of Wife in the domestic case, Lawyer is prohibited from representing Husband unless the information has become "generally known."

Comment [8] to Rule 1.9 provides that, "the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client...If the information is known or readily available to a relevant sector of the public, such as the parties involved in the matter, then the information is probably considered 'generally known.'"

Lawyer will have to consider the information he received during Wife's individual representation. If Lawyer obtained confidential information from Wife that is relevant to the domestic matter and is not generally known, then Lawyer has a conflict and Wife's informed consent to the representation of Husband, confirmed in writing, is required. ■

Endnote

1. This opinion applies to all domestic partner relationships.

John B. McMillan Distinguished Service Award

James E. Ferguson II

Born and raised in Asheville, Mr. Ferguson earned his undergraduate degree *summa cum laude* from what is now North Carolina Central in 1964 and his law degree from Columbia University Law School in 1967. Upon graduation, Mr. Ferguson formed a law firm with Julius Chambers, which is now Ferguson, Stein, Chambers, Adkins, Gresham & Sumter, PA. The firm's focus on civil rights representation led Mr. Ferguson into all areas of the law, including criminal defense, voting rights, personal injury, and education law. In addition to his successful law practice, Mr. Ferguson served the legal community on dozens of boards and committees including: the American Bar Association, the American College of Trial Lawyers, the NC Bar Association, the NC Association of Black Lawyers, and the National Institute of Trial Advocacy (NITA). In 1986 Mr. Ferguson traveled to South Africa to establish a trial advocacy program with the South African Black Lawyers Association that continues to provide trial advocacy training to the private bar and South African government at all levels. The South Africa program was NITA's first international program, and has served as a model for over 40 other programs conducted by NITA around the world. Dedicated to educating young lawyers, Mr. Ferguson served as president of the National Institute of Trial Advocacy in 1997 and was also an adjunct faculty member at both NC Central and Harvard Law Schools. Mr. Ferguson has received countless national, state, and local awards and accolades for his professional and civic service, including being listed as one of the nation's top ten litigators by *National Law Journal* in 1989 and receiving the Humanitarian Award by the National Conference of Community and Justice in 2001. As a lawyer, volunteer, and civic leader, James E. Ferguson II is held in the highest regard by the bench, the bar, and his community, and is a deserving recipient of the John B. McMillan Distinguished Service Award.

Theodore O. Fillette

A native of Alabama, Mr. Fillette obtained his undergraduate degree from Duke University in 1968 and his law degree from Boston University School of Law in 1973. While in Boston, Mr. Fillette became involved with a civil rights group that led him to a summer internship in Charlotte. Upon graduation in 1973, Mr. Fillette returned to North Carolina and began work in the Charlotte legal services office, where he has remained for the past 42 years. Mr. Fillette focused his practice on landlord-tenant law, quickly becoming an expert in the field. Throughout the 1970s, Mr. Fillette fought to change antiquated landlord-tenant laws relating to self-help eviction and habitability in both the courts and the legislature, culminating in a landmark 1977 court of appeals case and the 1977 Residential Rental Agreements Act. In the 1980s, as litigation director of Legal Services of the Southern Piedmont, Mr. Fillette expanded his work into Union, Cabarrus, and Gaston Counties. In 1998 Mr. Fillette helped rewrite the housing code that was adopted by the Charlotte city council. In addition to his legal achievements, Mr. Fillette has been at the forefront of forging partnerships with private attorneys and law firms to provide *pro bono* representation to legal aid clients, and has developed materials and presentations to train lawyers on housing law. While the above examples are merely a small portion of his accomplishments, it is undeniable that Mr. Fillette has devoted his entire professional career to ensure equal access to the justice system for all, regardless of ability to pay for adequate legal counsel. An unfailingly respectful and courteous lawyer and civic leader, Ted Fillette is a deserving recipient of the John B. McMillan Distinguished Service Award.

A. Elizabeth Keever

A *magna cum laude* graduate of the University of North Carolina at Greensboro and UNC Law School, Ms. Keever began her legal career in 1975 as the first woman assistant district attorney in Cumberland County. In that capacity she supervised district court operations, initiating programs addressing both domestic violence and victims' rights issues. Ms. Keever was appointed to the district court bench in 1982, again the first woman to hold that post in Cumberland County. She was elected to her seat later that year, and was reelected seven additional times. In 1992 Judge Keever was appointed chief district court judge, where she served until her retirement in 2014. During her tenure, Judge Keever developed programs that have become models for other communities, including family court, safe haven, and drug courts. Judge Keever has served her profession in countless capacities, including as president of the NC Association of District Court Judges and chair of the Conference of Chief District Court Judges. She was instrumental in the creation of the new judges' school at the UNC School of Government, and she regularly teaches at legal seminars and conferences. Judge Keever's dedication to both her community and profession have garnered her significant recognition, including Judge of the Year from the NC Association of Women Attorneys, the *Lawyer's Weekly* Woman of the Year, and the Order of the Long Leaf Pine. Judge Beth Keever has given long, faithful, and distinguished service to the state of North Carolina and the legal profession and is a deserving recipient of the John B. McMillan Distinguished Award.

Richard M. Lewis Jr.

A native of Whiteville, Dick Lewis attended the University of Notre Dame and the University of North Carolina School of Law. Mr. Lewis served in the United States Navy and was honorably discharged as a lieutenant. Dick Lewis has practiced law in Fayetteville since 1963 and is widely respected in all quarters of the community. He has been a leader for decades in both his profession and in the civic life of Cumberland

County. Mr. Lewis has concentrated his practice primarily in real estate, but he has also served as an assistant district attorney, civil trial practitioner, and counsel to both public and private institutions, including the City of Fayetteville and the Airborne and Special Operations Museum Foundation. Mr. Lewis has served his profession as president of the Cumberland County Bar Association, and as a member of the UNC Law School Alumni Board. Mr. Lewis has been a speaker at numerous professional seminars and was certified as an instructor by the North Carolina Board of Realtors. In addition, Mr. Lewis coordinated the Legal Aid Access to Justice Campaign for the Cumberland County Bar Association and has repeatedly volunteered his carpenter skills to Cumberland County Law Day service projects. According to former State Bar Councilor Renny Deese, "[Mr. Lewis] is the personification of what every ethical, competent, and highly professional lawyer should aspire to be. But above all else, he is a gentleman, always considering the feelings and circumstances of others. It is not uncommon at all for members of the bar to call on Dick for direction in ethical matters, professionalism, and general guidance in life." For these reasons, Richard M. Lewis Jr. is a deserving recipient of the John B. McMillan Distinguished Service Award.

Seeking Award Nominations

The John B. McMillan Distinguished Service Award honors current and retired members of the North Carolina State Bar who have demonstrated exemplary service to the legal profession. Awards will be presented in recipients' districts, with the State Bar councilor from the recipient's district introducing the recipient and presenting the certificate. Recipients will also be recognized in the *Journal* and honored at the State Bar's annual meeting in Raleigh.

Members of the bar are encouraged to nominate colleagues who have demonstrated outstanding service to the profession. The nomination form is available on the State Bar's website, ncbar.gov. Please direct questions to Peter Bolac, PBolac@ncbar.gov ■

Lawyer Assistance Program (cont.)

Fried: Why You Burn Out and How to Revive. "Revival from burnout is always about the recovery of lost authenticity. It's waking up to who we really are and realizing that heaven is not a destination, but a state of mind. If being fried can bring us to a point where we reconnect to our own true nature, then it's worth every moment of separation to rediscover the heaven that has been inside of us all along." ■

Dr. Geralyn Datz, Ph.D., a licensed clinical health psychologist in Hattiesburg, MS, is a nationally recognized speaker and provides education about the impact of stress, medical illnesses, addiction, and burnout. A lecturer for the Louisiana State Bar Association programs since 2005, she is the president of Southern Behavioral Medicine Associates, PLLC, a group psychology practice that specializes in forensics, health assessments, and psychological treatment. She is the incoming president of the Southern Pain Society. She earned a bachelor's degree in psychology and pre-med at St. John University in Queens, NY. She received a master's and Ph.D. in clinical psychology from Stony Brook University in Long Island, NY. She finished a residency at New Orleans Veterans Affairs Medical Center and a fellowship in behavioral medicine at Louisiana State University's Pennington Biomedical Research Center in Baton Rouge. (southernbmed@gmail.com; southernbmed.com; Ste. 106, 1 Commerce Dr., Hattiesburg, MS 39402)

Reprinted from Louisiana Bar Journal*, Vol. 62, No. 4, December 2014/January 2015, published by the Louisiana State Bar Association.*

The North Carolina Lawyer Assistance Program is a confidential program of assistance for all North Carolina lawyers, judges, and law students, which helps address problems of stress, depression, alcoholism, addiction, or other problems that may impair a lawyer's ability to practice. If you would like more information, go to nclap.org or call: Cathy Killian (for Charlotte and areas west) at 704-910-2310, Towanda Garner (in the Piedmont area) at 919-719-9290, or Nicole Ellington (for Raleigh and down east) at 919-719-9267.

Silverstein Nominated as Vice-President

Raleigh attorney John M. Silverstein was selected by the State Bar's Nominating Committee to stand for election to the office of vice-president of the North Carolina State Bar. The election will take place in October at the State Bar's annual meeting.

A native of Charleston, West Virginia, Silverstein is a graduate of Colgate University. He earned his law degree in 1972 from the University of North Carolina School of Law. From 1972-1976 he worked in the Attorney General's Office. Since 1976 he has practiced with the Raleigh firm of Satisky & Silverstein, LLP.

His professional activities include membership in the Wake County Bar Association and the Wake County Real Property Lawyers Association. He served as president of the 10th Judicial District Bar in 1994.

In additional to his professional activities, John is involved in his community. Twice he has served as president of Temple Beth Or and is currently a life trustee. He is on the Lineberger Comprehensive Cancer Center Board of Visitors, was chair of the Raleigh Board of Adjustment, and is a youth soccer coach.

While a State Bar councilor he has served as chair of the Facilites Committee, Attorney/Client Assistance Committee, and of the Grievance Committee.

In 2002 John was a recipient of the Wake County Bar Association's Joseph Branch Professionalism Award. He has also received the President's Award and the Outstanding Volunteer Lawyer Award.

He is married to Leslie, and they have two daughters, Amy and Elizabeth. ■

Law School Briefs

All of the law schools located in North Carolina are invited to provide material for this column. Below are the submissions we received this quarter.

Campbell University School of Law

The nation's most underrated law school – Campbell Law School holds the top spot in a list of the ten most underrated law schools in America as determined by Bloomberg Business. The rankings are derived by analyzing three measurements of success including student employment outcomes, median scores on the Law School Admission Test, and the number of citations received by an institution's law review.

Campbell Law Reentry Project collects 2015 NCBA* Pro Bono *Award—The Reentry Project, an initiative of the Campbell Law School *Pro Bono* Council, received the 2015 Law Student Group *Pro Bono* Award from the North Carolina Bar Association during the organization's annual conference on June 19. The accolade marks the first time that a group from Campbell Law has collected the honor. The Reentry Project assists citizens who may qualify for relief from the collateral consequences stemming from a criminal record, which often include barriers to employment opportunities and affordable housing.

Benton takes over as NCBA president—Shelby Duffy Benton, a 1985 Campbell Law graduate, has been named president of the North Carolina Bar Association. Benton is the first Campbell Law graduate to head the NCBA in this capacity.

Campbell Law graduates 148—Campbell Law School conferred 148 Juris Doctor degrees at its 37th annual hooding and graduation ceremony on May 8 at Meymandi Concert Hall at the Duke Energy Center for the Performing Arts. North Carolina Secretary of State Elaine Marshall, a 1981 Campbell Law graduate, delivered the commencement address.

CPILSA, A.J. Fletcher Foundation awards five grants for public interest work—The Campbell Public Interest Law Student Association and The A.J. Fletcher Foundation have awarded five grants to students for their upcoming work in public interest this summer. CPILSA will fund the top award, a $2,500 grant, while AJF will provide four grants of $2,000 each.

Charlotte School of Law

Charlotte School of Law announces new online delivery of a corporate compliance certificate program—Beginning in July 2015, the certificate will prepare graduates for the CCEP (Certified Compliance & Ethics Professional) exam. The program provides a certificate needed to start a career in the compliance field where there are opportunities for recent or experienced college graduates looking for career advancement. Law students and lawyers may also advance in compliance, particularly individuals who hope to work in financial and securities sectors. Completion of a CCB (Compliance Certification Board) accredited academic program is the only way for a person with no prior work experience in compliance to sit for the CCB certification exam. For recent college or law school graduates, the compliance certificate offers a cost-effective, time-efficient route to a career in this field.

CharlotteLaw recently published faculty—Charlotte School of Law Assistant Professor of Law Brian Clarke's article, *ObamaCourts? The Impact of Judicial Nominations on Court Ideology*, was recently published in the University of Virginia's *Journal of Law & Politics*. Clark's research proves that President Obama's successful first-term nominees to the US Court of Appeals for the Fourth Circuit shifted the collective ideology of that court from quite conservative to being slightly liberal. These conclusions were based on detailed analysis of all of the Fourth Court's labor and employment law decisions from 2004, 2006, 2008, 2010, and 2012.

Librarian named best blogger—Susan Catterall was named Best Blogger/Writer of the Year by Private Law Libraries with her advice column, "The Reference Desk," published monthly in *American Association of Law Libraries* (AALL).

Duke Law School

Levi appointed co-chair of new NC Commission on the Administration of Law and Justice—North Carolina Chief Justice Mark Martin has named Dean David F. Levi one of five co-chairs of a new state commission charged with undertaking a comprehensive review of the state judicial system and making recommendations for strengthening the courts within the existing administrative framework. The co-chairs are focusing on five areas of inquiry, according to AOC News: criminal investigation and adjudication, civil justice, technology and its application to our courts, the future of legal services, and public trust and confidence.

Coleman honored by ABA Criminal Justice Section —James Coleman Jr., the John S. Bradway professor of the practice of law, will receive the ABA Criminal Justice Section's Raeder-Taslitz Award in October. The award recognizes a law professor whose work has made a significant contribution to promoting public understanding of criminal justice, justice and fairness in the criminal justice system, or best practices on the part of lawyers and judges. Coleman co-directs the Wrongful Convictions Clinic and directs the Center for Criminal Justice and Professional Responsibility where he focuses on the legal, political, and scientific causes of wrongful convictions and how they can be prevented.

New names for Duke Law clinics focused on health justice—Two clinics that allow law students to hone practical skills by serving the legal needs of clients facing critical and chronic illnesses have new names. The AIDS Legal Project, directed by Senior Lecturing Fellow Allison Rice, is now known as the Health Justice Clinic and offers service to clients with legal matters stemming from cancer diagnoses, as well as from HIV and AIDS. The AIDS Policy Clinic, established in 2010 and directed by Clinical Professor Carolyn McAllaster, has been renamed the HIV/AIDS

Policy Clinic. McAllaster had directed the AIDS Legal Project from its establishment in 1996 until 2015.

Elon University School of Law

Elon Law welcomes new faculty members as inaugural legal method and communication fellows—Julee Flood has clerked in federal and state appellate courts in Maine, New Hampshire, North Carolina, and Tennessee. She has bachelor's and master's degrees from the University of Florida, an MPA from the University of Maine, a JD from the University of New Hampshire School of Law, and a PhD from the University of Tennessee. Flood has published in the *Georgetown Journal of Law and Public Policy*, the *Journal of College and University Law*, the *New Hampshire Bar Journal*, and *Theory Into Practice*. She has taught at the University of Tennessee College of Law and Duke University.

Tim McFarlin has practiced law in St. Louis law firms, handling matters involving contracts, intellectual property, real estate, trusts and estates, and defamation. McFarlin has taught at Washington University in St. Louis and Fontbonne University. He has published in the *Saint Louis University Law Journal* and in the *Vanderbilt Journal of Entertainment and Technology Law* (forthcoming). McFarlin holds bachelor's degrees, *summa cum laude*, in political science and history from the University of Missouri, and a JD from Saint Louis University School of Law, where he was *Saint Louis University Law Journal* editor-in-chief.

Cassandra Thomas Roberts has served as counsel for commercial and wealth lending at BB&T Corporation, as an associate with Alston & Bird, and as law clerk to Circuit Administrative Judge Sheila Tillerson Adams, Circuit Court for Prince George's County, Maryland. She has taught business law at High Point University. She holds a bachelor's degree from North Carolina A&T State University and a JD/MBA from Howard University School of Law. Prior to law school, Thomas Roberts worked as a compliance examiner for the National Association of Securities Dealers and as a treasury management analyst for Suntrust Bank.

University of North Carolina School of Law

New dean of Carolina Law—Carolina alumnus and Raleigh lawyer Martin H. Brinkley '92 has been named the 14th dean of UNC School of Law. Brinkley comes to the deanship after 22 years in private practice, and he previously taught at the school as an adjunct. His primary experience has been in the fields of corporate law, mergers and acquisitions, antitrust, insurance, public finance, and nonprofit organizations law. Brinkley succeeds Jack Boger '74 who returns to the law school faculty after serving as dean for nine years. Brinkley will remain associated with Smith Anderson as of counsel while serving the University and the law school.

Clinical programs—This year marks the 35th anniversary of the UNC School of Law clinical programs. Since 1980 the programs have given help and hope to thousands of clients and have offered students diverse opportunities to learn and practice essential legal skills. As importantly, the expansive growth of clinical programs over the past 35 years has provided key reinforcement for Carolina Law's public service mission. More than 70 students a year participate in seven clinics covering juvenile defense, domestic violence, immigration, intellectual property, and consumer financial transactions.

Professor advises* Constitution Annotated *revisions—Michael Gerhardt, Samuel Ashe Distinguished Professor in Constitutional Law and director of the Program in Law and Government, has become the first independent scholar to advise the American Law Division, a branch of the Congressional Research Service at the Library of Congress, in revising and updating the official *US Constitution Annotated*, popularly known as CONAN. Gerhardt will ensure that the revisions and updates to the document are comprehensive, free of bias, and legally sound, as required by federal law.

CLE—The Dan K. Moore Program in Ethics will be held Friday, November 13. Further details at law.unc.edu/cle.

Wake Forest University School of Law

Suzanne Reynolds (JD '77) named dean of Wake Forest University School of Law—Suzanne Reynolds (JD '77) became dean of the Wake Forest University School of Law, effective July 1. Reynolds, who joined the Wake Forest Law faculty in 1981, has served as interim dean for the past year. She is the first woman to head the law school. Widely respected for her scholarship, teaching, and public service, Reynolds served as executive associate dean for academic affairs from 2010 to 2014. "During much of my year as interim dean, people across our constituencies urged me to consider the position," said Reynolds. "I resisted, but amazing students, faculty, staff, brother and sister alumni, and friends of the law school and university convinced me. I am especially happy to serve as the first woman dean, and I look forward to building on all that we have accomplished over the past year." Known nationally for her expertise in family law, she was a principal drafter of statutes that modernized the laws regarding both alimony and adoption. She authored a three-volume treatise on North Carolina family law that has become the authoritative source for law students, lawyers, and judges. Professor Timothy Davis will serve as Wake Forest Law's newest executive associate dean for academic affairs. He is the first African-American to serve in this role at the law school. Davis will take over August 1 for the interim executive associate dean for academic affairs, Ron Wright. Professor Davis is one the country's best known sports law scholars. He has co-authored a casebook on sports law, and co-authored *The Business of Sports Agents*, published by the University of Pennsylvania Press. ■

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Thank you to the following sponsors of the State Bar's quarterly meeting:

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Client Security Fund Reimburses Victims

At its July 16, 2015, meeting, the North Carolina State Bar Client Security Fund Board of Trustees approved payments of $177,095.37 to eight applicants who suffered financial losses due to the misconduct of North Carolina lawyers.

The payments authorized were:

1. An award of $4,750 to a former client of Robert A. Bell of Fayetteville. The board determined that Bell was retained to handle a client's civil action against an auto parts company for unfair and deceptive trade practices. In the eight months of the representation, Bell failed to provide any valuable legal services for the fee paid. Bell was transferred to disability inactive status on April 10, 2015.

2. An award of $1,200 to a former client of Robert A. Bell. The board determined that Bell was retained to handle a client's child support modification matter, which was based in a Hawaiian family court. Bell accepted client funds knowing that North Carolina did not have jurisdiction and he would not be able to assist the client in his matter.

3. An award of $80,000 to a former client of Freddie Lane Jr. of Fayetteville. The board determined that Lane was retained to file suit against a client's mother and sister for negligent supervision while watching the client's child that nearly drowned in a swimming pool. Lane settled the matter and was ordered by the judge that approved the minor's settlement to pay lienholders and put the balance in a special needs trust or pay the balance to the clerk of court for the child's benefit. Lane deposited the settlement proceeds into his trust account, made several transfers from the funds to his operating account, but made no lien payments and failed to set up the trust or pay the balance to the clerk. Due to misappropriation, Lane's trust account balance is insufficient to pay all of his clients' obligations. Lane was disbarred on November 20, 2014. The board previously reimbursed one other Lane client a total of $25,000.

4. An award of $1,000 to a former client of Wilbur L. Linton Jr. of High Point. The board determined that Linton was retained to handle a client's custody matter. The client paid Linton $1,000 of his quoted $3,000 fee. After making the payment, the client could not get in contact with Linton. When the payment was made, Linton was on a stayed suspension and, just after the payment was made, was served with a motion to revoke the stay. Linton failed to provide any valuable legal services for the fee paid prior to consenting to the stay being revoked. Linton was disbarred on April 17, 2015.

5. An award of $33,333.33 to a former client of Sue E. Mako of Wilmington. The board determined that Mako was retained to handle a personal injury claim for the client who was involved in an automobile accident. Mako settled the matter, took her fee, and sent the client her portion of the settlement, but failed to resolve any medical liens. The client failed to deposit her settlement check prior to the State Bar freezing Mako's trust account. Due to a shortage in her trust account caused by Mako's dishonest conduct, Mako's trust account balance was insufficient to cover all of her clients' obligations. Mako was disbarred on August 20, 2014. The board previously reimbursed two other Mako clients a total of $79,320.92.

6. An award of $6,112.04 to a former client of Hugh F. McManus IV of Wilmington. The board determined that McManus was retained to handle a client's personal injury claim from an automobile accident. McManus settled the matter but failed to make all the proper disbursements. Due to misappropriation, McManus' trust account balance is insufficient to cover all of his clients' obligations. McManus was suspended on November 3, 2014.

7. An award of $50,000 to a former client of Hugh F. McManus IV. The board determined that McManus was retained to handle a client's personal injury claim from a slip and fall accident. McManus settled the matter and deposited the settlement proceeds into his trust account. McManus failed to resolve any medical liens or make any of the proper disbursements from the settlement funds. Due to misappropriation, McManus' trust account balance is insufficient to cover all of his clients' obligations.

8. An award of $700 to a former client of Theophilus Stokes III of Greensboro. The board determined that Stokes was retained to handle several traffic tickets for a client. Stokes failed to provide any valuable legal services for the fee paid prior to the State Bar filing a formal complaint against Stokes for serious misconduct. Stokes was disbarred on January 12, 2011. The board previously reimbursed one other Stokes client a total of $20,000. ■

Rural *Pro Bono* (cont.)

month through the LOTL program, where the volunteer attorney knows that the client meets the poverty thresholds of LANC. For those attorneys who are willing to become more involved, they can assist through extended service, where the volunteer hours can make a big difference to a client who might otherwise be powerless. However the service is provided, attorneys in North Carolina are making a difference to rural communities.

M. Ann Anderson is a former co-chair of the NCBA's LOTL Committee.

Endnote

1. LOTL celebrated its four year anniversary on March 4, 2015, with some tremendous statistics. Since its creation in 2011, LOTL has served over 12,873 clients with attorneys volunteering, as of the end of April 2015, over 12,832 hours. The total value of these services is roughly estimated to be $3.2 million dollars.

During January 2015, 39% of the clients calling LANC's hotline were handled by LOTL volunteers. Clearly the contributions of this *pro bono* program are making a big difference for those in need.

Currently over 684 North Carolina attorneys are volunteering, but the program is seeking 250 more with 100 attorneys needed to handle advice only expungement cases.

The North Carolina State Bar and Affiliated Entities

Selected Financial Data

The North Carolina State Bar

	2014	2013
Assets		
Cash and cash equivalents	$6,735,818	$6,548,412
Property and equipment, net	16,863,396	17,691,016
Other assets	321,776	329,470
	$23,920,990	$24,568,898
Liabilities and Fund Equity		
Current liabilities	$4,685,121	$4,843,760
Long-term debt	11,098,958	11,545,979
	15,784,079	16,389,739
Fund equity-retained earnings	8,136,911	8,179,159
	$23,920,990	$24,568,898
Revenues and Expenses		
Dues	$7,880,063	$7,631,961
Other operating revenues	847,703	909,935
Total operating revenues	8,727,766	8,541,896
Operating expenses	(8,359,854)	(8,027,353)
Non-operating expenses	(410,160)	(30,175)
Net income	$(42,248)	$484,368

The NC State Bar Plan for Interest on Lawyers' Trust Accounts (IOLTA)

	2014	2013
Assets		
Cash and cash equivalents	$2,025,021	$2,971,291
Interest receivable	221,154	223,659
Other assets	238,374	216,498
	$2,484,549	$3,411,448
Liabilities and Fund Equity		
Grants approved but unpaid	$1,910,140	$2,330,755
Other liabilities	246,712	239,932
	2,156,852	2,570,687
Fund equity-retained earnings	327,697	840,761
	$2,484,549	$3,411,448
Revenues and Expenses		
Interest from IOLTA participants, net	$1,716,642	$1,812,929
Other operating revenues	5,764	657,282
Total operating revenues	1,722,406	2,470,211
Operating expenses	(2,250,243)	(2,691,021)
Non-operating revenues	14,773	8,518
Net loss	$(513,064)	$(212,292)

Board of Client Security Fund

	2014	2013
Assets		
Cash and cash equivalents	$1,069,103	$1,390,739
Other assets	335	(790)
	$1,069,438	$1,389,949
Liabilities and Fund Equity		
Current liabilities	$17,951	$20,269
Fund equity-retained earnings	1,051,487	1,370,018
	$1,069,438	$1,390,287
Revenues and Expenses		
Operating revenues	$785,346	$728,173
Operating expenses	(1,104,565)	(1,009,786)
Non-operating revenues	688	1,370
Net loss	$(318,531)	$(280,243)

Board of Continuing Legal Education

	2014	2013
Assets		
Cash and cash equivalents	$279,922	$287,066
Other assets	217,640	173,802
	$497,562	$460,868
Liabilities and Fund Equity		
Current liabilities	114,007	116,822
Fund equity-retained earnings	383,555	344,046
	$497,562	$460,868
Revenues and Expenses		
Operating revenues	$686,253	$664,397
Operating expenses	(646,750)	(686,423)
Non-operating revenues	6	31
Net income (loss)	$39,509	$(21,995)

Board of Legal Specialization

	2014	2013
Assets		
Cash and cash equivalents	190,062	$191,899
	$190,062	$191,899
Liabilities and Fund Equity		
Current liabilities	10,257	15,059
Fund equity-retained earnings	179,805	176,840
	$190,062	$191,899
Revenues and Expenses		
Operating revenues-specialization fees	$150,323	$136,050
Operating expenses	(147,431)	(132,164)
Non-operating revenues	73	(6)
Net income	$2,965	$3,880

The Chief Justice's Commission on Professionalism

	2014	2013
Assets		
Cash and cash equivalents	$238,271	$221,068
Other assets	124,645	100,762
	$362,916	$321,830
Liabilities and Fund Equity		
Current liabilities	982	522
Fund equity-retained earnings	361,934	321,308
	$362,916	$321,830
Revenues and Expenses		
Operating revenues-fees	$354,055	$327,547
Operating expenses	(313,435)	(302,761)
Non-operating revenues	6	32
Net income	$40,626	$24,818

Board of Paralegal Certification

	2014	2013
Assets		
Cash and cash equivalents	$431,035	$402,611
Other assets	-	7,050
	$431,035	$409,661
Liabilities and Fund Equity		
Current liabilities - accounts payable	14,417	7,275
Fund equity-retained earnings	416,618	402,386
	$431,035	$409,661
Revenues and Expenses		
Operating revenues-fees	$234,700	$245,575
Operating expenses	(220,478)	(184,083)
Non-operating revenues	10	(12)
Net income	$14,232	$61,480

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