



The North Carolina State Bar
Office of Counsel

2015
Annual
Report

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OFFICE OF COUNSEL

The Office of Counsel is the legal department of the North Carolina State Bar. The office consists of disciplinary staff, authorized practice staff, the investigations department, the Attorney/Client Assistance Program (ACAP) staff, and trust account compliance counsel. The disciplinary staff reports upon all grievance files opened by the State Bar involving allegations of professional misconduct by North Carolina lawyers. It investigates and tries claims of professional misconduct and disability. The office assists the Authorized Practice Committee by investigating and resolving complaints concerning the unauthorized practice of law, including representing the State Bar in lawsuits to obtain injunctions prohibiting the unauthorized practice of law. It represents the State Bar in federal and state trial and appellate courts. The office provides legal counsel to the Client Security Fund Board of Directors and pursues subrogation actions for recovery of funds paid by the CSF. It coordinates the appointment of trustees to wind down the practices of deceased, disabled, and disbarred lawyers. The office also provides legal opinions on issues of interest to all departments, committees, and boards of the State Bar.

The ACAP staff helps members of the public resolve problems with lawyers other than matters involving potentially serious violations of the Rules of Professional Conduct. The ACAP staff also provides information about the grievance process, the courts and the justice system, and helps resolve fee disputes between lawyers and their clients.

The Office of Counsel includes seventeen lawyers, one administrator, seven paralegals, six administrative assistants, eleven investigators, one random auditor, one trust account compliance counsel, the ACAP director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator, and two public liaisons.

The Office of Counsel is located in the State Bar Building, 217 E. Edenton St., Raleigh, N.C. 27601. It is open from 9 a.m. until 5 p.m. on weekdays and may be reached at 919-828-4620. Each staff person's telephone extension appears above.

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THE NORTH CAROLINA STATE BAR**

Attorney Client Assistance Program

The Attorney Client Assistance Program (“ACAP”) is comprised of five staff members: two public liaisons, two fee dispute resolution facilitators, one of which is a certified mediator, and one administrative assistant. During 2015 the staff responded to 11,167 calls from clients and various members of the general public. As a result of those calls, the ACAP staff contacted 2,970 lawyers in an attempt to resolve clients’ concerns. The ACAP staff also responded to 2,224 letters from inmates and 1,363 email messages from clients and lawyers.

The State Bar opened 530 fee dispute resolution files during 2015. Of those files, 108 files were assigned to the five judicial district fee dispute resolution committees. The remaining 422 were assigned to in-house facilitators.

Authorized Practice Committee

The Authorized Practice Committee opened 108 investigation files in 2015, compared to 100 files opened in 2014 and 80 in 2013. The committee resolved 110 files during 2015 compared to resolving 105 files during 2014.

The committee also registers prepaid legal service plans. Plans must file initial registrations, amended registrations, and annual renewals. The committee does not approve plans, but does review registrations for compliance with the definition of prepaid legal service plans. During 2015, 11 plans submitted registration applications; five plans were accepted for registration while six were denied. Ten plans registered amendments to existing plans this year, and 73 plans submitted renewal registrations. At the request of a plan applicant, the committee held a hearing to review staff counsel’s determination not to register two plans. The committee also investigated to ensure that a plan was operating in compliance with the regulations, and the committee sent a letter of caution as a result of this investigation. One plan’s registration was revoked in 2015 for failing to comply with renewal requirements, and three plans requested that their registration be withdrawn. Currently, 72 prepaid plans are registered with the State Bar.

In October 2012, the office was authorized to file for injunctive relief against **Mortgage Information Services**, an Ohio business that the State Bar alleges attempted to close residential loan transactions. The office has prepared but not yet filed the complaint.

In May 2013, the office filed an action in Wake County Superior Court as a co-plaintiff with the Consumer Protection Division of the North Carolina Department of Justice against **Swift Rock Financial, Inc., d/b/a World Law Debt, a/k/a World Law Group; Orion Processing, LLC, d/b/a World Law Processing; Derin Scott; Bradley Haskins; World Law South, Inc; Global Client Solutions**. The plaintiffs allege that all of those defendants operate collectively and interchangeably under various names that include the words “World Law.” The plaintiffs allege that they draft and provide pleadings for debtors to file “*pro se*” and provide those debtors with scripts to use in court. The case is referred to as “the Swift Rock case.” The plaintiffs obtained a temporary restraining order in May 2013 and a preliminary injunction in June 2013 prohibiting

all of those defendants “together with their officers, agents, employees, attorneys, and all persons acting in concert with them,” from engaging in the practice of law in North Carolina, as defined in N.C. Gen. Stat. §§ 84-2.1, 84-4, and 84-5, from collecting fees from North Carolina consumers for any debt adjusting or legal services, and from transferring, concealing, spending or disposing of any funds received, directly or indirectly, from any North Carolina consumer in connection with any such activities. Thereafter, the lawyer who represented those defendants at the TRO hearing formed a new North Carolina business corporation, **World Law South**. WLS sued the State Bar, alleging that it somehow harmed WLS by bringing the lawsuit against WLG. In that lawsuit, WLS alleged that it has the identical business model that the Wake County Superior Court enjoined WLG from pursuing. The Business Court dismissed the WLS case. The Swift Rock case is still pending in the Business Court. The State and the State Bar amended the Swift Rock complaint in June 2014 to add WLS and Bradley Haskins as parties. The court appointed James Pendergrass as trustee of approximately 1,100 checks and money orders that the defendants solicited in and after August 2014 from North Carolina and other consumers. In late February 2015, WLS dissolved and Orion filed for bankruptcy under Chapter 11. In August 2015, the Bankruptcy Court converted the Orion bankruptcy to Chapter 7 and began liquidation proceedings. Also in August 2015, the federal Consumer Finance Protection Bureau filed a nationwide injunction action against the defendants in federal court in Florida. That Court has entered an injunction against all defendants and a receiver for the assets of the defendants. The State Bar is in the process of seeking default judgments against Swift Rock, Haskins, and WLS and consent or summary judgment against Orion and Scott. The Office of Counsel represents the State Bar.

LegalZoom.com, Inc., a national online legal document preparation service, commenced this action against the State Bar in September 2011. In October 2015, the parties reached a consent judgment mutually dismissing the complaint and the counterclaim. In addition, LegalZoom voluntarily dismissed another lawsuit brought in federal court with regard to its prepaid legal services plan. The Attorney General and Van Laningham Duncan represent the State Bar.

In April 2013, the office was authorized to seek an order holding **Diane Carter** in contempt of a permanent injunction prohibiting her unauthorized practice of law. The office filed the motion in Wake County Superior Court. Carter removed it to the Federal District Court for the Eastern District of North Carolina, which remanded it to Wake County. The Office of Counsel will resume pursuing its enforcement action.

In July 2014, the office was authorized to seek injunctive relief against **Mary Ella Hutchison** of Louisburg. The State Bar alleged that Hutchison regularly attended foreclosure hearings and provided advice to homeowners on how to defend foreclosure proceedings. The State Bar alleged that she was also filing documents with clerks of court on behalf of homeowners in an effort to stop foreclosures. The State Bar filed the complaint in Wake County. In December 2014, the court granted Hutchison’s motion to change venue to Franklin County. The court entered a consent judgment of permanent injunction in July 2015.

In October 2014, the office was authorized to seek an injunction against **Kenneth Moore**. The State Bar alleges that Moore operates a business named “Way More Post-Conviction Services” that offers to provide post-conviction services to criminal defendants. The office filed the complaint but has not yet been able to serve Moore, who is located in Brooklyn.

In October 2014, the office was authorized to seek an injunction against **Robert Jones** and “**A Cheap and Fast Divorce,**” which offers to provide divorce pleadings. The court entered a permanent injunction be default.

In October 2014, the office was authorized to seek an injunction against **Hassie Nowlin**. The State Bar alleged that Nowlin filed court pleadings on behalf of others in numerous cases in the United States District Court for the Middle District of North Carolina. Nowlin did not file an answer and the court has entered a default judgment of permanent injunction.

In January 2015, the office was authorized to seek an injunction against **Constanza Sierra**. Sierra prepared and filed immigration petitions for numerous individuals. In October 2015, Sierra agreed to a consent order of permanent injunction.

In April 2015, the office was authorized to seek an injunction against the **South Mountain Group**. The State Bar alleges that the South Mountain Group is offering legal services in conjunction with the closing of residential real estate transactions, including deed preparation. The office has prepared the complaint, but has not yet filed it.

The office continues to work with the Consumer Protection Division of the North Carolina Attorney General’s Office to prevent a number of debt adjusting and loan modification firms from offering the services of lawyers who are not licensed to practice law in North Carolina. The services of these lawyers constitute the unauthorized practice of law. With very limited exceptions, debt adjusting is illegal in North Carolina. The office and the Consumer Protection Division are also working to stop business entities that engage in the unauthorized practice of law by offering to prepare living trusts for senior citizens.

Trust Account Supervisory Program

Eleven lawyers currently participate in the Trust Account Supervisory Program. In 2015, two lawyers successfully completed the program. The trust account compliance counsel reviews random audits quarterly to identify and evaluate potential participants in the program.

Grievance Committee Actions

During 2015, the State Bar opened 1,331 grievance files, compared with 1,222 files opened in 2014.

Also in 2015, the office reviewed 14 direct mail solicitation letters. All of the reviewed letters involved minor violations of advertising ethics rules and 11 were resolved without opening grievance files. The office opened grievances against three lawyers. The office reviewed 34 direct mail solicitation letters in 2014.

All grievance files opened by the State Bar are considered and acted upon by one or more members of the Grievance Committee. The committee considered a total of 1,289 grievance files during 2015. Of those, 963 were dismissed. Ten files were dismissed and retained because the respondent lawyers had been disbarred. Fifteen files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 77 percent of the grievance files considered by the committee. In addition to the grievance files that were dismissed outright in 2015, 25 files were dismissed with letters of caution and 55 were dismissed with letters of warning.

In 2015, the Grievance Committee issued admonitions in 38 files, reprimands in 25 files and censures in 11 files. One hundred-nineteen files involving 69 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 193 grievance files resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately 15 percent of the grievances considered by the committee in 2015. The committee referred two lawyers to the Lawyers' Assistance Program, one lawyer to Law Office Management Training and four lawyers to the Trust Account Supervisory Program. At the end of 2015, one file had been continued for further investigation.

Cases Before the Disciplinary Hearing Commission

1. Discipline and Disability Cases

The DHC is the independent tribunal which hears lawyer discipline and disability cases. The 20-member commission hears cases involving alleged violations of the Rules of Professional Conduct, cases in which it is alleged that a lawyer is disabled, petitions from disbarred and suspended lawyers seeking reinstatement to the practice of law, and show cause petitions alleging that a lawyer has violated a prior DHC order. Each case is heard by a panel of three consisting of two lawyers and one public member.

During 2015, the Office of Counsel completed a total of 64 disciplinary, reinstatement and show cause cases before the DHC, representing 97 files referred by the Grievance Committee. Of those, 27 were resolved by hearing or default judgment and 37 were resolved by consent. In 2014, the office completed 44 such cases of which 23 were resolved by trial and 20 were resolved by consent.

In 2015, the DHC entered nine orders of disbarment. Six lawyers misappropriated entrusted funds. Two lawyers neglected several clients' cases, did not properly wind down their law practices after they were suspended, and did not respond to the State Bar. One lawyer engaged in a pattern of abusive and disruptive conduct towards courts, opposing counsel and clients, neglected multiple clients, forged a falsely notarized verification, and did not timely respond to the State Bar.

In 2015, the DHC imposed four active suspensions, seven suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 19 suspensions entirely stayed upon the lawyer's compliance with various conditions. The office filed a show cause petition against one lawyer and a period of suspension was activated. The DHC censured one lawyer. Three lawyers were transferred to disability inactive status by the DHC. Two complaints were dismissed.

2. Petitions for Reinstatement and for Stays

In 2015, the DHC denied one lawyer's petition for reinstatement from disbarment and three lawyers' petitions for reinstatement from suspension. The DHC reinstated one suspended lawyer. In the cases of five lawyers who served a portion of their suspensions, the DHC entered orders staying the balance of the suspensions.

Actions Before the State Bar Council

1. Tenders of Surrender of License

In 2015, six lawyers surrendered their law licenses to the State Bar Council and were disbarred. Four misappropriated entrusted funds. One acknowledged that he had sex with a client. One neglected and ultimately abandoned his clients during a suspension imposed by the DHC and did not respond to the State Bar. Four lawyers surrendered their law licenses and were disbarred by the Council during 2014.

2. Reinstatement Proceedings

In 2015, the Council held reinstatement hearings for two disbarred lawyers seeking reinstatement. In one hearing, the Council voted to accept the DHC's recommendation and denied reinstatement. In the other hearing, the Council voted to reject the DHC's recommendation and reinstate the lawyer.

Actions Before the Secretary

The Secretary receives reinstatement petitions from lawyers whose licenses are suspended for disciplinary violations and enters reinstatement orders in uncontested cases. Contested cases are referred to the DHC for trial.

Eleven suspended lawyers filed reinstatement petitions with the Secretary in 2015. The Secretary reinstated two lawyers. The Secretary reinstated four lawyers with the remaining period of suspension being stayed upon the lawyers' compliance with conditions. The office objected to five petitions.

Actions Before the State Trial Courts

1. Judicial Disbarments

In 2015, six lawyers were disbarred by the Wake County Superior Court and one lawyer was disbarred by the Columbus County Superior Court. Five lawyers misappropriated entrusted funds. One lawyer intentionally falsified documents purporting to show that he maintained legal malpractice insurance when he had not maintained such insurance for at least 15 years. One lawyer pled guilty to one misdemeanor count of common law forgery and seven misdemeanor counts of common law obstruction of justice. In 2014, two lawyers surrendered their licenses to superior courts and were disbarred.

2. Injunction Proceedings

During 2015, the Office of Counsel obtained injunctions prohibiting 20 lawyers from handling entrusted funds. In 2014, the office obtained 26 such injunctions.

3. Appointment of Trustees for Law Practices of Missing, Deceased, Disabled & Disbarred Lawyers

In 2015, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 19 lawyers. Of that number, two lawyers became disabled, five lawyers suffered physical conditions that made them unavailable to clients, and 12 lawyers had died. The State Bar filed 23 trustee petitions in 2014.

4. Other Discipline and Disability Cases in the State Trial Courts

One lawyer was placed on interim suspension by the Wake County Superior Court following his arrest in South Carolina on charges including attempted murder, kidnapping, burglary, and possession of cocaine.

One lawyer was placed on interim suspension by the Wake County Superior Court pending an investigation into allegations of professional misconduct.

One lawyer was placed on interim suspension by the Cherokee County Superior Court following his arrest for illegally possessing methamphetamine with the intent to sell or deliver and other charges.

5. Miscellaneous

As usual, in 2015 the State Bar was a party to numerous actions in the State courts. The Office of Counsel represented the State Bar in many of these actions. In five cases, the State Bar is represented by the Attorney General. In one case, the State Bar is represented by private counsel.

At the end of 2015, the office had six pending cases in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

The office appeared in Wake County Superior Court to obtain permission to disburse funds from the trust accounts of eight lawyers who have been enjoined from handling entrusted funds. In addition to the Authorized Practice cases described above, the State Bar was a party to the following cases in state trial courts during 2015:

Christopher Harper v. Edward White et al (Durham County Superior Court). Harper was the defendant in a DHC case. The DHC hearing began on May 22 and 23, was recessed, and was scheduled to conclude on September 25-26, 2014. On September 19, Harper had a civil summons issued along with an order extending time to file complaint against State Bar investigator Edward White and five other witnesses identified in the DHC case. Harper alleged that the witnesses were going to lie at the DHC hearing. He obtained from Judge Orlando Hudson a temporary restraining order prohibiting the witnesses from testifying in the DHC case. The State Bar, on behalf of White, filed an interlocutory appeal and sought a stay of the TRO. The State Bar also filed a motion to be allowed to intervene on the petition for a stay with the Court of Appeals. The Court of Appeals allowed the motion to intervene and stayed the TRO until it determined the appeal on the merits. Thereafter, the witnesses testified in the DHC case, rendering the appeal of the TRO moot. The DHC announced its decision to disbar Harper on September 26 and entered the disbarment order on November 19. Harper's appeal of that order is pending. On October 9, Harper filed a complaint in this Durham County action seeking actual and punitive damages and attorney fees for alleged false testimony by the witnesses and alleged

tortious interference with his law practice. He has not served the complaint on White. White filed a motion to dismiss. The Superior Court discontinued the complaint without deciding the motion to dismiss. The Office of Counsel represented White.

David C. Sutton v. NC State Bar, Ronald G. Baker, Sr., the Disciplinary Hearing Commission and Steven D. Michael (Wake County Superior Court). Sutton was the defendant in a DHC case. He filed this lawsuit shortly before his DHC case was scheduled to conclude, seeking to enjoin the DHC proceeding, seeking a declaratory judgment that the State Bar is unconstitutional, and seeking alleged damages. He sought relief for purported violations of the North Carolina Constitution. The court denied Sutton's motion for temporary restraining order. The DHC hearing concluded on October 22 and 23, 2014. The court allowed the State Bar's motion to dismiss on October 29. Sutton filed notice of appeal. The defendants' motion to dismiss the appeal was allowed on August 25, 2015 because Sutton did not file a record on appeal. The Office of Counsel represented the State Bar defendants. The Attorney General represented the DHC defendants.

LegalZoom, Inc. v. NC State Bar (Wake County Superior Court). On October 11, 2013, LegalZoom filed this lawsuit alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 in responding to LegalZoom's fifth public records request. LegalZoom alleged that the State Bar produced too few and too many documents in response to its second, third and fourth public records requests. It sought an order compelling the State Bar to respond differently and an award of attorney fees. Mediation commenced on February 10, 2014 but was recessed. The Attorney General represents the State Bar.

World Law South, Inc. v. NC State Bar (Wake County Superior Court). On October 14, 2013, WLS filed a complaint alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 because it allegedly did not respond "as promptly as possible" to a public records request served on the State Bar on September 18, 2013 by the lawyer who represents LegalZoom and represented some of the defendants in the World Law Group case. WLS has not served a public records request on the State Bar. WLS scheduled an "emergency" hearing October 16 at which it did not present any evidence to support its claims and at which it conceded that this lawsuit was filed "preemptively." The court ordered the parties to mediation. The mediation occurred in March. WLS withdrew the purported pending public records request and stated that it absolved the State Bar of the obligation to respond to it. Its counsel has since submitted a new public records request to which the State Bar has again responded. The Attorney General represents the State Bar.

Jill Burton v. Martin Horn (Orange County District Court). In this domestic case, Burton subpoenaed records allegedly possessed by LAP concerning Horn. The Office of Counsel filed an objection to the subpoena. Horn had previously subpoenaed records allegedly possessed by the State Bar concerning Burton, to which both Burton and the State Bar objected. On April 22, 2015, the court announced its decision compelling the State Bar to produce the LAP records but Burton did not prepare, and the court never entered, a written order. Thereafter, Horn waived confidentiality and voluntarily produced the records himself. The court granted the State Bar's Rule 60 motion to vacate its order compelling production.

Jerry R. Tillett v. NCSB and the North Carolina Judicial Standards Commission (Dare County Superior Court). Jerry Tillett is a defendant in a pending DHC case. He filed this action seeking a declaratory judgment that “the statutory framework pursuant to which the State Bar is prosecuting Judge Tillett is constitutionally infirm, that he is being denied due process, equal protection of the law [sic], that the Order of Public Reprimand of the JSC is *res judicata* and/or collateral estoppel, the State Bar lacks jurisdiction, and the State Bar’s prosecution violates the Sherman Act.” He seeks to enjoin the DHC action and seeks costs and attorney fees. The case has been designated exceptional under General Rule of Practice 2.1 and has been assigned the Wake County Senior Resident Superior Court Judge Donald W. Stephens. The court postponed a hearing on the plaintiff’s motion for temporary restraining order. The Court denied Tillett’s request for a preliminary injunction and continued the case until the DHC proceeding is concluded. Van Laningham Duncan represents the State Bar.

Sharon Victoria Wilson-Dye v. N.C. State Bar (N.C. Industrial Commission). Apparently, plaintiff’s home was sold in foreclosure. She commenced a purported tort claim against the State Bar and the N.C. Bar Association. She did not allege any act by either defendant. On December 14, 2015, the deputy commissioner entered an order declaring “the undersigned finds as fact and concludes as a matter of law that this claim, and each and every claim made herein, is and are, wholly on its/their face(s), plainly frivolous and abusive nonsense that is unworthy of further comment. In addition, the affidavits and other filings are rife with frivolous nonsensical allegations of intentional conduct and Constitutional violations, which, if they had any merit whatsoever, would deprive the Commission of jurisdiction.” The deputy commissioner dismissed the action. The Attorney General represents the State Bar.

Christopher Harper v. The North Carolina State Bar (NC Industrial Commission). Harper was disbarred by the DHC in November 2014. Harper gave notice of appeal but failed to file a record in a timely manner. The DHC dismissed his appeal in October 2015. Harper then moved for relief under Rule 60. The DHC denied his motion. After the DHC dismissed his appeal and denied any relief, Harper filed a state tort claim action against the State Bar in November 2015. Harper contends that counsel negligently disbarred him by presenting witnesses who testified falsely. On January 6, 2016, the deputy commissioner granted the State Bar’s motion to dismiss. The Attorney General represents the State Bar.

Capitol Broadcasting Company, Inc. v. Disciplinary Hearing Commission (Wake County Superior Court). WRAL-TV filed this lawsuit against the DHC on January 12, 2016, challenging the DHC’s decision not to allow live streaming of the trial in *North Carolina State Bar v. Mumma*. Prior to a hearing on WRAL’s motion for temporary restraining order, the parties reached a resolution of the dispute. The trial is being live-streamed.

Eugene Boyce v. the North Carolina State Bar (Wake County Superior Court). Boyce is a Raleigh lawyer who was licensed in 1956. In 2000, his son Dan was a candidate for the office of Attorney General of North Carolina. During that campaign, the eventual winner, Attorney General Roy Cooper, ran an advertisement which Boyce contends defamed Boyce, Dan Boyce, their law partners and their law firm. The Boyces filed a lawsuit against Cooper in 2000 (“the defamation lawsuit”) which was settled in 2015. In the current lawsuit, Boyce alleges that he filed a grievance with the State Bar, that the State Bar has a conflict of interest in addressing that grievance, and that the State Bar did not address that grievance as he demanded. Boyce acknowledges that his purpose in filing this lawsuit is to “have clarified, resolved and confirmed his good standing and licensure status ... as well as a final ruling on the last remaining issue of

this fifteen year old controversy.” He prays for a declaratory judgment that another agency has concurrent jurisdiction with the State Bar, for a declaratory judgment that the grievance he filed should therefore be referred elsewhere, and for an award of costs.

Actions Before the State Appellate Courts

The office represented the State Bar in 13 appellate cases in 2015.

In April 2010, the DHC suspended **Willie Gilbert** of Wilson for five years and stayed the suspension for five years. In March 2014, the DHC lifted the stay and activated the suspension, concluding that Gilbert violated the conditions of the stay by failing to pay his membership dues, failing to submit semi-annual trust account reports from a CPA, making false representations to the Johnston County Superior Court, and being censured by that court. Gilbert appealed. The Court of Appeals denied his petition for writ of *supersedeas*. On May 5, the Court of Appeals affirmed in an unpublished decision. Gilbert filed a notice of appeal and a petition for writ of *certiorari* to the Supreme Court. On August 21, the Supreme Court denied Gilbert’s petition for writ of *certiorari*. The State Bar’s motion to dismiss his appeal to the Supreme Court is pending.

In April 2014, the DHC disbarred **William Britt** of Lumberton. The DHC found that Britt misappropriated entrusted funds. Britt appealed. The Court of Appeals denied his petition for writ of *supersedeas*. The case was scheduled for decision without oral argument. On September 1, the Court affirmed the DHC.

In April 2015, the DHC suspended Asheville attorney **Clarke Wittstruck** for five years. The DHC found that Wittstruck engaged in extensive neglect of multiple clients and that he repeatedly did not respond to the State Bar. Wittstruck appealed. The Court of Appeals summarily denied his petition for writ of *supersedeas*. On August 27, Wittstruck withdrew his appeal.

In December 2013, the DHC suspended Kitty Hawk lawyer **Dan Merrell** for two years but stayed the suspension for two years upon his compliance with conditions. Merrell represented a land developer who was involved in self-dealing to the detriment of investors. The DHC found that Merrell mishandled the investors’ funds and had a conflict of interest. Merrell appealed. On October 6, the Court of Appeals affirmed the order of discipline in a published opinion. In April 2014, the DHC censured Greensboro lawyer **Robert Lee Scott**. The DHC found that Scott did not timely obtain a title insurance policy, pay a title insurance premium, pay property taxes, and communicate with his client. Scott appealed. On June 16, 2015, the Court of Appeals issued a published opinion affirming the order of discipline.

In May 2014, the DHC disbarred **Kia Narissa Scott** of Concord. The DHC found that Scott committed a criminal act, embezzlement. Scott appealed. She did not make arrangements to obtain a transcript and did not serve a proposed record on appeal. On April 29, 2015, the DHC dismissed the appeal.

In June 2014, the DHC suspended Wilmington lawyer **William Batchelor** for three years for mismanaging his trust account. The order of discipline provides that, after serving one year active, he may petition for a stay of the balance. Batchelor appealed. The Court of Appeals denied his petition for writ of *supersedeas*. On April 21, 2015, the Court of Appeals issued an unpublished opinion affirming the order of discipline.

In January 2014, the DHC suspended Hickory lawyer **Robert W. Adams** for four years for gross trust account mismanagement. The order provides that, after serving two years active, Adams may apply for a stay of the balance. Adams appealed. The Court of Appeals denied his petition for a writ of *supersedeas*. On March 3, the Court of Appeals issued a published opinion affirming the Order of Discipline.

In March 2015, the State Bar filed a DHC complaint against **Jerry Tillett**. Tillett filed a motion to dismiss in lieu of answer. Before the DHC ruled on that motion, Tillett filed a petition for writ of prohibition to the North Carolina Court of Appeals seeking to enjoin the DHC proceeding. The Court of Appeals denied that petition. The DHC denied Tillett's motion to dismiss and he filed notice of appeal to the Court of Appeals. The Court of Appeals denied his petition for writ of *supersedeas* and his motion for temporary stay. Tillett also filed in the Court of Appeals a petition for writ of *certiorari* and alternative motion to suspend appellate rules. The Court of Appeals heard oral argument in the case on November 18, 2015. On December 4, 2015, the Court of Appeals denied Tillett's petition for writ of *certiorari* and alternative motion to suspend appellate rules and granted the State Bar's motion to dismiss the appeal.

In the meantime, Tillett filed a separate notice of appeal from the DHC's denial of his motion for judgment on the pleadings and filed petitions for writs of *supersedeas*, *certiorari*, mandamus/prohibition and a motion for temporary stay at the Court of Appeals, all of which the Court denied. Tillett's motion to dismiss his appeal of the DHC's denial of his motion for judgment on the pleadings, citing the Court of Appeals' ruling in the appeal of his motion to dismiss, is pending. Tillett also filed a separate lawsuit in Dare County Superior Court seeking to enjoin the DHC proceedings, described in the litigation section above. The Supreme Court has not ruled on Tillett's petition for discretionary review, in which he seeks to bypass the Court of Appeals, a procedure which is prohibited in appeals from the DHC.

In November 2014, the DHC disbarred Durham lawyer **Christopher G. Harper**. The DHC found that Harper misappropriated entrusted funds. Harper appealed. Harper served the State Bar with a proposed record on appeal but ultimately did not file a record on appeal. The DHC dismissed Harper's appeal in October 2015. Harper gave notice of appeal from the DHC's denial of his post-trial motions for a new hearing and to vacate the judgment.

In December 2015, the DHC denied Harper's post-trial motions for a new hearing and to vacate the judgment. On January 7, 2016, Harper filed notice of appeal from that ruling.

In December 2014, the Wake County Superior Court entered a preliminary injunction prohibiting Eden lawyer **Clinton Orville Light** from handling entrusted funds. Light gave notice of appeal. Light served a proposed record on appeal to which the State Bar objected in part. Light did not file a brief within the time allowed. On September 9, the DHC transferred Light to disability inactive status. The Court denied the State Bar's motion to dismiss Light's appeal. On October 6, Light filed another motion for extension of time to file a brief. The State Bar responded and again moved to dismiss the appeal. The Court of Appeals dismissed the appeal on October 30, 2015.

In May 2012, the State Bar filed a disciplinary complaint against **Tracey Cline** for conduct that occurred while she was District Attorney for the 14th Judicial District (Durham County). Cline was removed from office as District Attorney for the same conduct. The DHC proceeding was stayed while Cline pursued appeals of the removal order. In June 2015, the DHC entered an

order of discipline suspending Cline’s license for five years. The order allowed her to petition for a stay of the suspension after serving two years active and gave her credit for any time she had not practiced law since her removal from office. Cline appealed. She did not file a record on appeal within the time allowed. On January 5, 2016, the DHC granted the State Bar’s motion to dismiss the appeal.

In November 2014, the DHC suspended Greenville lawyer **David C. Sutton** for five years. The DHC found, among other things, that Sutton routinely engaged in disruptive and abusive conduct toward the court, opposing counsel, and clients. Sutton appealed. The Court of Appeals denied his petition for writ of *supersedeas*. Sutton has filed the record on appeal. His brief is due on or before January 19, 2016.

Actions Before the Federal Courts

North Carolina State Board of Dental Examiners v. Federal Trade Commission (United States Supreme Court). On May 31, 2013, the Fourth Circuit issued an opinion holding that the North Carolina Dental Board and its individual members are not entitled to state action immunity in actions under the Sherman Antitrust Act because their actions are not supervised by other state officials. The State Bar filed a brief as *amicus curiae* urging the court to grant the Dental Board’s request for rehearing or for rehearing *en banc*. The Fourth Circuit denied that petition. The State Bar filed an *amicus* brief in support of the Dental Board’s petition to the United States Supreme Court for writ of *certiorari*. The Attorney General of North Carolina filed an *amicus* brief in support of that petition. On March 3, the Supreme Court granted the petition for *certiorari*. In May, the State Bar filed its *amicus* brief, along with the Board of Law Examiners and three other state bars. The attorneys general of twenty-three states, including North Carolina, also filed an *amicus* brief. The Supreme Court held oral argument on October 14. On February 25, 2015, the Supreme Court issued its decision affirming the Fourth Circuit. The State Bar was represented by Robinson, Bradshaw and Hinson.

Loushanda Myers v. Krista Bennett, Fern Gunn Simeon, John Silverstein and unnamed “unknown agents of the North Carolina State Bar” et al (US District Court, EDNC). Krista Bennett and Fern Gunn Simeon are State Bar employees. John Silverstein is a State Bar councilor and, after the events alleged in the complaint, was appointed Chair of the State Bar Grievance Committee. Myers asserts that the State Bar defendants, the North Carolina court system, and numerous Johnston County government officials violated her rights. She does not describe this alleged violation with particularity but it appears to arise out of Myers’ arrest by Johnston County law enforcement officials. The court allowed the State Bar defendants’ motions to strike and to dismiss. Myers appealed to the Fourth Circuit. The Fourth Circuit dismissed that appeal as interlocutory. Myers can pursue appeal again after the court enters final judgments on all claims against all parties. Last year, Myers filed an amended complaint that no longer named the State Bar defendants as defendants but continued to allege that they failed in their duty toward her and are “material” to her complaint. The Office of Counsel represents the State Bar defendants.

Capital Associated Industries, Inc. v. Roy Cooper in his capacity as Attorney General of the State of North Carolina; Nancy Lorrin Freeman, in her official capacity as District Attorney for the 10th Prosecutorial District of the State of North Carolina; and J. Douglas Henderson, in his official capacity as District Attorney for the 18th Prosecutorial of the State of North Carolina (US District Court, MDNC). CAI is a trade association. Its members are small and medium-sized businesses. CAI assists its members with personnel management issues. CAI wants to hire lawyers to provide legal advice and legal services to its members. The State Bar's Ethics Committee has issued an ethics advisory to the effect that doing so would violate North Carolina's statutory prohibitions against the unauthorized practice of law. CAI brought this lawsuit seeking a declaration that N.C. Gen. Stat. §§ 84-4 and 84-5 violate the United States and North Carolina constitutions and seeking an injunction prohibiting the defendants from enforcing the statutes against it. The plaintiff does not seek an award of damages but does seek an award of attorney fees, "disbursements," and costs. The Court allowed the State Bar to intervene in the lawsuit. The Court denied the State's motions to dismiss and the plaintiff's motion for preliminary injunction. Van Laningham Duncan represents the State Bar.

LegalZoom.com, Inc. v. North Carolina State Bar, Ronald L. Gibson, Joshua T. Walthall, Fern Gunn Simeon and John N. Fountain (US District Court, MDNC). LegalZoom brought this action on June 3, 2015 contending that the defendants, sixteen other State Bar councilors, and three advisory members of the Authorized Practice Committee conspired to violate the Sherman Antitrust Act, 15 U.S.C. §§ 1 and 2, by denying LegalZoom's applications for registration of two purported prepaid legal services plans. In October 2015, LegalZoom filed a voluntary dismissal as part of the settlement agreement between the parties. The Attorney General and Van Laningham Duncan represented the defendants.

**SUMMARIES OF
DISCIPLINARY, DISABILITY & REINSTATEMENT ACTIONS**

COUNCIL DISBARMENTS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Wilbur Linton, Jr.	15BCS1	04/17/2015
Thomas F. Foster	15BCS2	04/17/2015
A. Stanley Mitchell	15BCS3	07/17/2015
William R. Sage	15BCS4	10/23/2015
Adrian A. Garcia	15BCS5	10/23/2015
L.J. Blackwood	15BCS6	10/23/2015

JUDICIAL DISBARMENTS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Edward L. McVey, III	15CV002707	02/27/2015
Matthew J. Ragaller	14CVS0627	04/02/2015
Peter C. Capece	15CVS3040	05/15/2015
Marty Steven McConchie	15CVS08892	07/02/2015
Donald H. Bumgardner	13CVS10889	07/27/2015
Franklin McDevin Huggins	15CVS4444	09/25/2015
Randy Lemay Cartrette	14CRS43753, 15CRS1345, 15CRS1346, 15CRS1347, 15CRS1348, 15CRS1349	12/14/2015

JUDICIAL DISCIPLINE

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
Robert J. Howell	15M002834	Interim Suspension
Marvin Ray Sparrow	15M04218	Interim Suspension
Eric Winston Stiles	15SP155	Interim Suspension

TRANSFERS TO DISABILITY INACTIVE STATUS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Transfer</u>
Elesha M. Smith	13G0869, 14G0838 14G0901, 14G0969 14G1070, 14G1097	01/15/2015 (by the Grievance Committee Chair)
Reid G. Hinson	14G0509	04/02/2015 (by the Grievance Committee Chair)

Robert A. Bell	12G0630, 12G0952 12G0953, 12G0997 13G0344, 13G0617 13G1139, 13G1176 14G0150, 14G0846 14G0937	04/10/2015 (by the Grievance Committee Chair)
Jesse B. Rouse, III	12G1094, 14G0190	04/16/2015 (by the Grievance Committee Chair)
Katherine L. Jones	15G0128	06/24/2015 (by the Grievance Committee Chair)
Janet M. Puschel	13G0263	12/21/2015 (by the Grievance Committee Chair)

BEFORE THE DISCIPLINARY HEARING COMMISSION

Completed Discipline & Disability Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Sir-Christopher Anderson	15DHC4	Disbarred (hearing/default)
Garey M. Ballance	15DHC11	Disbarred (consent)
Ertle Knox Chavis	14DHC28	Disbarred (hearing)
Reid C. James	14DHC34	Disbarred (hearing/default)
David A. Kirkbride	14DHC30	Disbarred (consent)
Victor H. Morgan	15DHC19	Disbarred (hearing/default)
Andrew N. Patterson, II	14DHC18	Disbarred (hearing)
Jimmy A. Pettis	15DHC6B	Disbarred (consent)
Meleisa Rush-Lane	15DHC1	Disbarred (hearing)
Charles Mark Feagan	14DHC23	5 year suspension (hearing)
Leroy R. Castle	15DHC31	3 year suspension (hearing)
Keith R. Henry	14DHC9	2 year suspension (consent)
Jeffrey R. Baker	15DHC14	1 year suspension (consent)
Sir Ashley Harrison	15DHC46	5 year suspension; possible stay after 3 years (consent)

Clark K. Wittstruck	14DHC29 14DHC33	5 year suspension; possible stay after 3 years (hearing)
Tracey E. Cline	12DHC22	5 year suspension; possible stay after 2 years (hearing)
Cassandra Dawn Skerrett	15DHC21	4 year suspension; possible stay after 2 years (consent)
Steve L. Combs	15DHC17	3 year suspension; possible stay after 1 year (consent)
Paul L. Brock	15DHC10	2 year suspension; possible stay after 1 year (consent)
William W. Respass Jr.	14DHC8	2 year suspension; possible stay after 6 months (consent)
John C. Johnston	15DHC19	3 year suspension; stayed 4 years (consent)
Daiva S. Bulluck	15DHC43	3 year suspension; stayed 3 years (consent)
John Peter Cattano	15DHC35	3 year suspension; stayed 3 years (hearing)
David A. Lloyd	14DHC5	3 year suspension; stayed 3 years (hearing)
Thomasine E. Moore	15DHC13	3 year suspension; stayed 3 years (consent)
James W. Thompson, III	14DHC31	3 year suspension; stayed 3 years (consent)
Jeffrey D. Smith	15DHC27	2 year suspension; stayed 3 years (consent)
Robert P. Tucker	15DHC30	2 year suspension; stayed 3 years (consent)
Robert G. Austin, III	15DHC5	2 year suspension; stayed 2 years (consent)
Christopher R.S. Boothe	15DHC23	2 year suspension; stayed 2 years (consent)
Robert A. Brady	14DHC12	2 year suspension; stayed 2 years (consent)
Joseph C. Delk, III	15DHC32	2 year suspension; stayed 2 years (consent)

Robert M. Gallant	15DHC22	2 year suspension; stayed 2 years (consent)
James G. Williams, IV	15DHC3	2 year suspension; stayed 2 years (consent)
Carl R. Wright	15DHC25	2 year suspension; stayed 2 years (consent)
Paul T. Jackson	14DHC20	1 year suspension; stayed 2 years (consent)
James H. Pardue	14DHC35	1 year suspension; stayed 18 months (consent)
Peter A. Paul	14DHC25	1 year suspension; stayed 1 year (hearing)
H. Russell Vick	14DHC6A	1 year suspension; stayed 1 year (consent)
Bobby D. Mills	15DHC26	Censure (hearing)
Laura G. Johnson	11DHC18	Disability inactive (consent)
Clinton Orville Light	14DHC16D	Disability inactive (hearing)
Mary Z. Alexander Reed	15DHC2	Disability inactive (consent)
Charles Edwards	15DHC29	Dismissed
Gretchen Engel	15DHC9	Dismissed (hearing)

Completed Show Cause Hearings

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Diedra Lynn Whitted	10DHC3 SC	3 year suspension activated (hearing)

Completed Reinstatement Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Douglas T. Simons	05BCS3 & 13BCR2	reinstatement denied by Council (hearing)
Ralph T. Bryant, Jr.	07DHC6 & 14BCR1	reinstated by Council (hearing)
Hilton S. Mitchell	09DHC20 & 15 BCR1	reinstatement denied by DHC (hearing)

Gary B. Kivett	11DHC15 & 14BSR2	reinstated by DHC; remaining suspension stayed (hearing)
Robert Brown, Jr.	08DHC8 & 14BSR4	reinstated by DHC (hearing)
William T. McKeny	13DHC4 & 15BSR1	reinstatement denied by DHC (hearing)
Allan C. De Laine	13DHC27 & 15BSR2	reinstated by Secretary; remaining suspension stayed (consent)
Robert E. Griffin	13DHC20 & 15BSR3	reinstatement denied by DHC (hearing)
Benjamin S. Small	11DHC13 & 15BSR4	reinstated by Secretary (consent)
Dawn D. Johnson	12 DHC14 & 15BSR5	reinstatement denied by DHC (hearing)
Elaine S. Kelley	14DHC6 & 15BSR6	reinstated by Secretary; remaining suspension stayed (consent)
William R. Shilling	13DHC24 & 15BSR7	reinstated by DHC; remaining suspension stayed (hearing)
Marshall F. Dotson, III	12DHC20 & 15BSR8	reinstated by DHC; remaining suspension stayed (hearing)
Jason A.M.Gold	12DHC34 & 15BSR9	reinstated by Secretary; remaining suspension stayed (consent)
Jeffrey S. Berman	12DHC31 & 15BSR10	reinstated by Secretary (consent)
Paul L. Whitfield	14DHC24 & 15BSR11	reinstated by Secretary; remaining suspension stayed (consent)
Steven M. Chevront	13DHC30R	reinstated by DHC; remaining suspension stayed (consent)
William T. Batchelor, II	13DHC25R	reinstated by DHC; remaining suspension stayed (consent)

Pending Discipline & Disability Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Bradley R. Lamb	07 DHC 28	stayed
Robert Melville, Jr.	13 DHC 9	abated-disability
Clinton O. Light	14DHC16	abated-disability
Mary Alexander Reed	15DHC2	abated-disability
Jennifer Foster	14 DHC 7	not scheduled
Jerry Tillett	15DHC7	not scheduled
Christopher Livingston	15DHC15	February 23-24
Thomas Hicks	15DHC16	February 25-26
Christine Mumma	15DHC20 & 15DHC24	January 11-15
Jonathon McElroy	15DHC26	January 28-29
William Brown	15DHC28	not scheduled
Michael Stamey	15DHC33	not scheduled
Edward Seltzer	15DHC34	March 11
Karla Simon	15DHC36	interim suspension
Clifton Gray	15DHC38	March 28-April 1
Warren Ballentine	15DHC39	interim suspension
Wade Leonard	15DHC40	February 12
Katherine Pekman	15DHC41	February 4
Bridgette Johnson	15DHC42	March 11
Robert Griffin	15DHC44	February 5
Devin Ferree Thomas	15DHC45	March 18
Michael Anderson	15DHC47	March 10-11
Nathan Workman	15DHC49	February 25-26
Kevin Byrnes	15DHC50	February 19
Michelle Hickerson	15DHC51	March 4
Jane and Sean Soboleski	15DHC52	March 3-4
Marlon Messer	15DHC53	March 31-April 1
John Reitzel	15DHC54	not scheduled
Dawn E. Ely	16DHC1	not scheduled
Amy Allred	16DHC2	not scheduled
R. Kelly Calloway	16DHC3	not scheduled
James I. Averitt	16DHC4	not scheduled

Pending Reinstatement Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Stephen Snyder	14D1 & 15RD1	03/18/2016

Pending Show Cause Hearings

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
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There are no pending show cause hearings at the end of 2015.

BEFORE THE STATE TRIAL COURTS

Trustees Appointed in 2015

<u>Lawyer</u>	<u>Reason Trustee Sought</u>
Michael H. Griffin	Disabled
Robert E. Patterson	Declining Health
David Lee Credle	Deceased
Robert J. Hensley, Jr.	Deceased
Franklin McDevin Huggins	Declining Health
Keith M. Stroud	Deceased
John D. Church	Declining Health
Devin F. Thomas	Declining Health
Carl Owen Smith, Jr.	Deceased
James H. McKinney	Deceased
Scott Alexander Harper II	Deceased
Francis Blackwell Stith	Deceased
David S. Orcutt	Deceased
Clinton Orville Light	Disabled
Leonor Ortiz Childers	Deceased
William H. Collier	Deceased
Neil Ray McLean	Deceased
Janet H. Downing	Deceased
Eric Winston Stiles	Declining Health

TROs and Preliminary Injunctions Obtained in 2015

<u>Lawyer</u>	<u>Date of Injunction</u>
Michael C. Stamey	01/13/2015
Jack B. Styles	02/05/2015
Peter C. Capece	03/05/2015
Daiva S. Bulluck	03/06/2015
Bridgette D. Johnson	03/06/2015
Joseph H. Forbes, Jr.	04/02/2015
Franklin McDevin Huggins	04/07/2015
Devin F. Thomas	05/04/2015
Peter F. Chastain	05/18/2015
Mary March Exum	06/24/2015
Marty Steven McConchie	07/02/2015
Ronald Tyson Ferrell	07/14/2015
Hugh F. McManus, IV	07/13/2015
R. Alfred Patrick	08/26/2015
Stephanie L. Villaver	09/28/2015
Donna Karen Cody	10/20/2015
Scott Justin McCormick	11/16/2015
Michael S. Williamson	12/02/2015
Lennard D. Tucker	12/07/2015
Robert M. Chandler, Jr.	12/8/2015

BEFORE THE GRIEVANCE COMMITTEE

Totals for 2015

Total Grievance Files Opened – 1,331

Total Files Considered by Committee –1,289

Dismissals – 963

Files Dismissed & Retained –10

Files Abated – 15

Files referred to the Lawyers Assistance Program – 2

Files referred to Law Office Management Training – 2

Files referred to the Trust Account Supervisory Program - 4

Files Dismissed with Letters of Caution – 25

Files Dismissed with Letters of Warning – 55

Files issued Admonitions – 38

Files issued Reprimands – 25

Files issued Censures – 11

Files issued Reciprocal Discipline – 0

Files referred to DHC – 119

Grievance Totals for First Quarter 2015

- 193 files were dismissed
 - 1 file was dismissed and retained
 - 8 files were abated
 - 1 file was continued
 - 0 lawyers were referred to the Lawyers Assistance Program
 - 1 lawyer was referred to the Trust Account Supervisory Program
 - 1 lawyer received a letter of caution
 - 7 lawyers received letters of warning
 - 5 lawyers received admonitions
 - 3 lawyers received reprimands
 - 0 lawyers received censures
 - 15 lawyers were referred to the Disciplinary Hearing Commission

Grievance Totals for Second Quarter 2015

219 files were dismissed
2 files were dismissed and retained
4 files were abated
0 files were continued
1 lawyer was referred to the Lawyers Assistance Program
1 lawyers was referred to the Trust Account Supervisory Program
10 lawyers received letters of caution
12 lawyers received letters of warning
11 lawyers received admonitions
7 lawyers received reprimands
0 lawyers received censures
17 lawyers were referred to the Disciplinary Hearing Commission

Grievance Totals for Third Quarter 2015

354 files were dismissed
7 files were dismissed and retained
3 files were abated
0 files were continued
1 lawyer was referred to Law Office Management Training
1 lawyer was referred to the Lawyers Assistance Program
1 lawyer was referred to the Trust Account Supervisory Program
10 lawyers received letters of caution
15 lawyers received letters of warning
15 lawyers received admonitions
11 lawyers received reprimands
4 lawyers received censures
22 lawyers were referred to the Disciplinary Hearing Commission

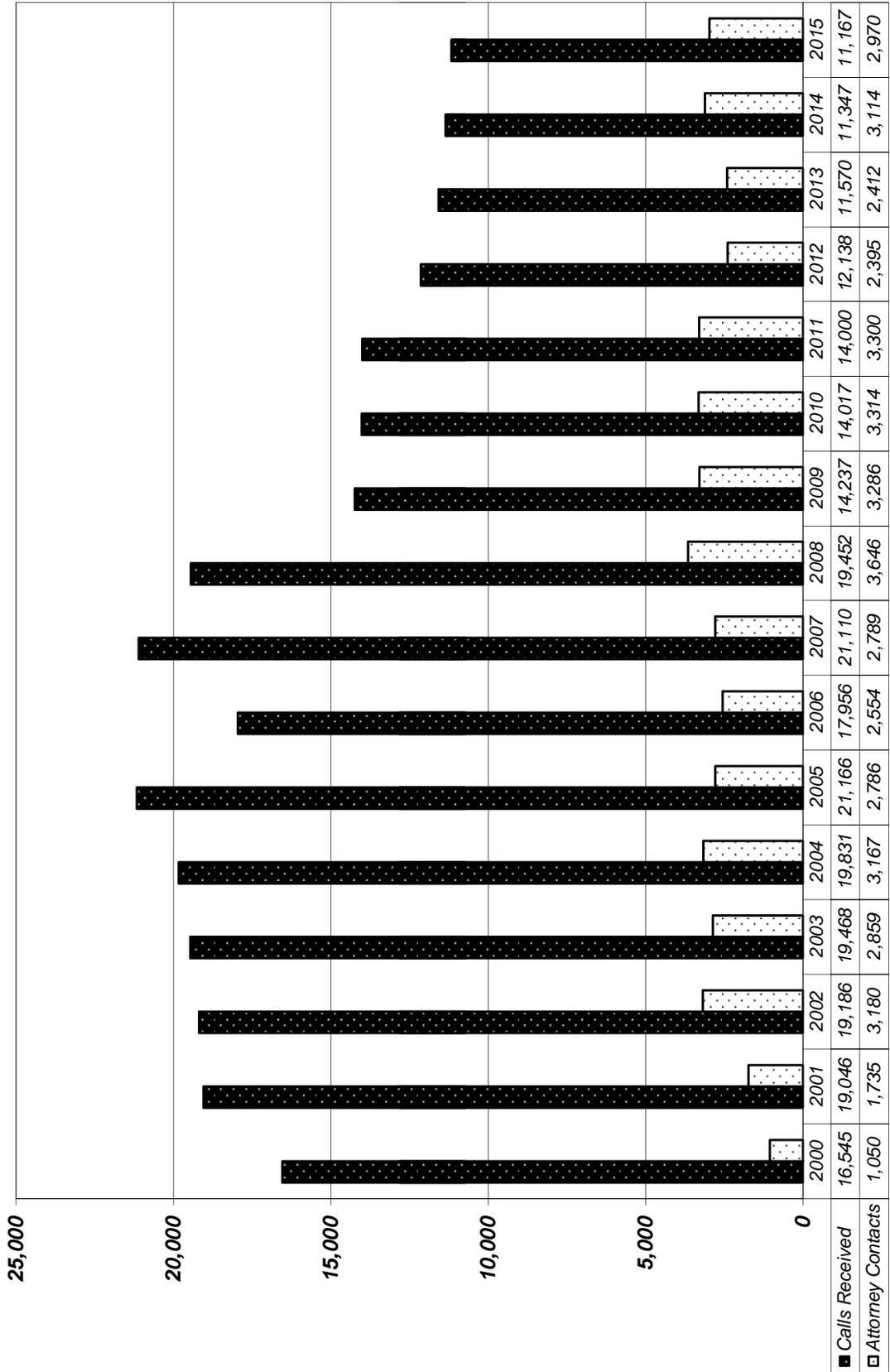
Grievance Totals for Fourth Quarter 2015

197 files were dismissed
0 files were dismissed and retained
0 files were abated
0 files were continued
0 lawyers were referred to the Lawyers Assistance Program
1 lawyer was referred to the Trust Account Supervisory Program
4 lawyers received letters of caution
18 lawyers received letters of warning
7 lawyers received admonitions
4 lawyers received reprimands
6 lawyers received censures
19 lawyers were referred to the Disciplinary Hearing Commission

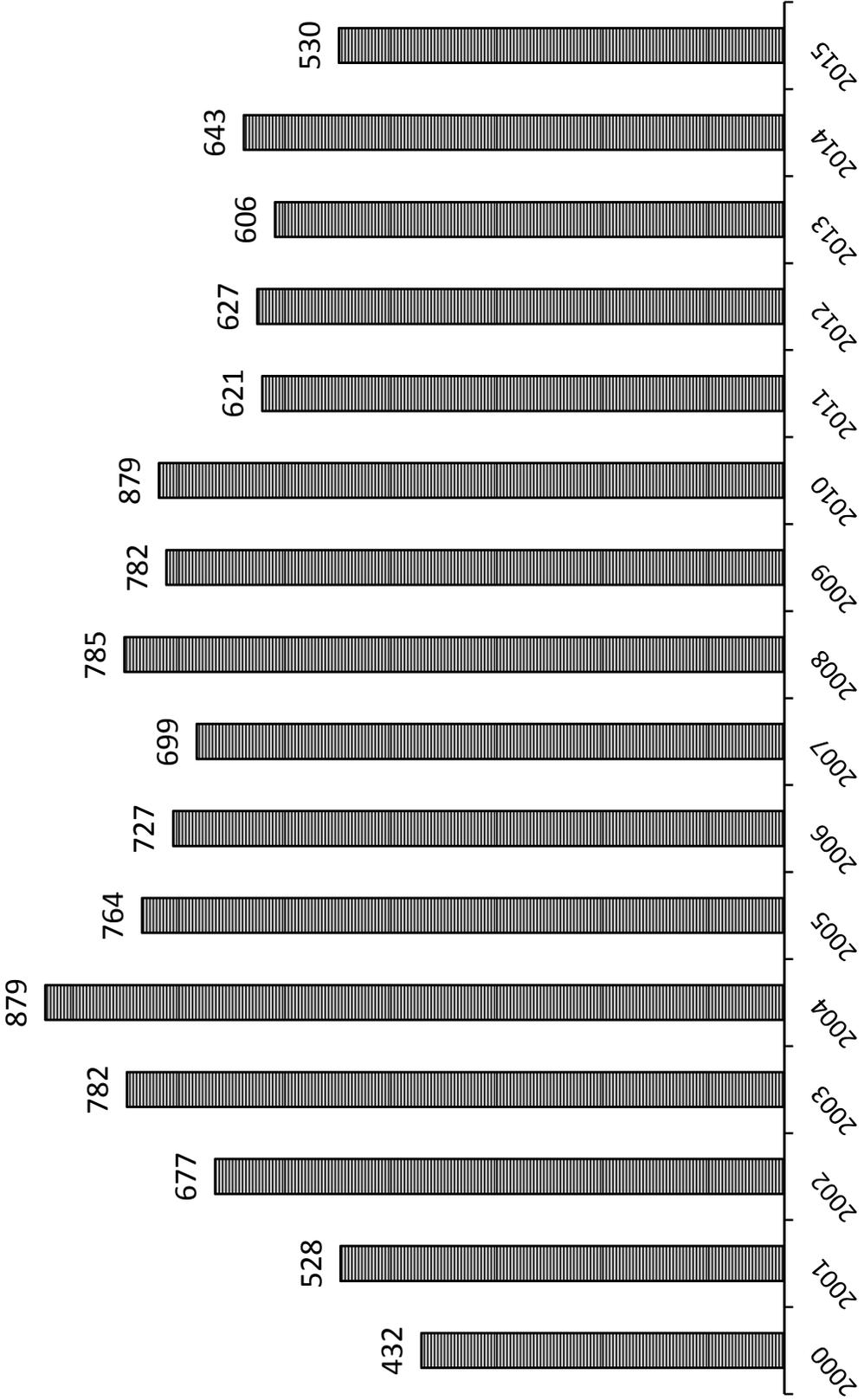
ATTORNEY CLIENT ASSISTANCE PROGRAM

Calls Received and Attorney Contacts

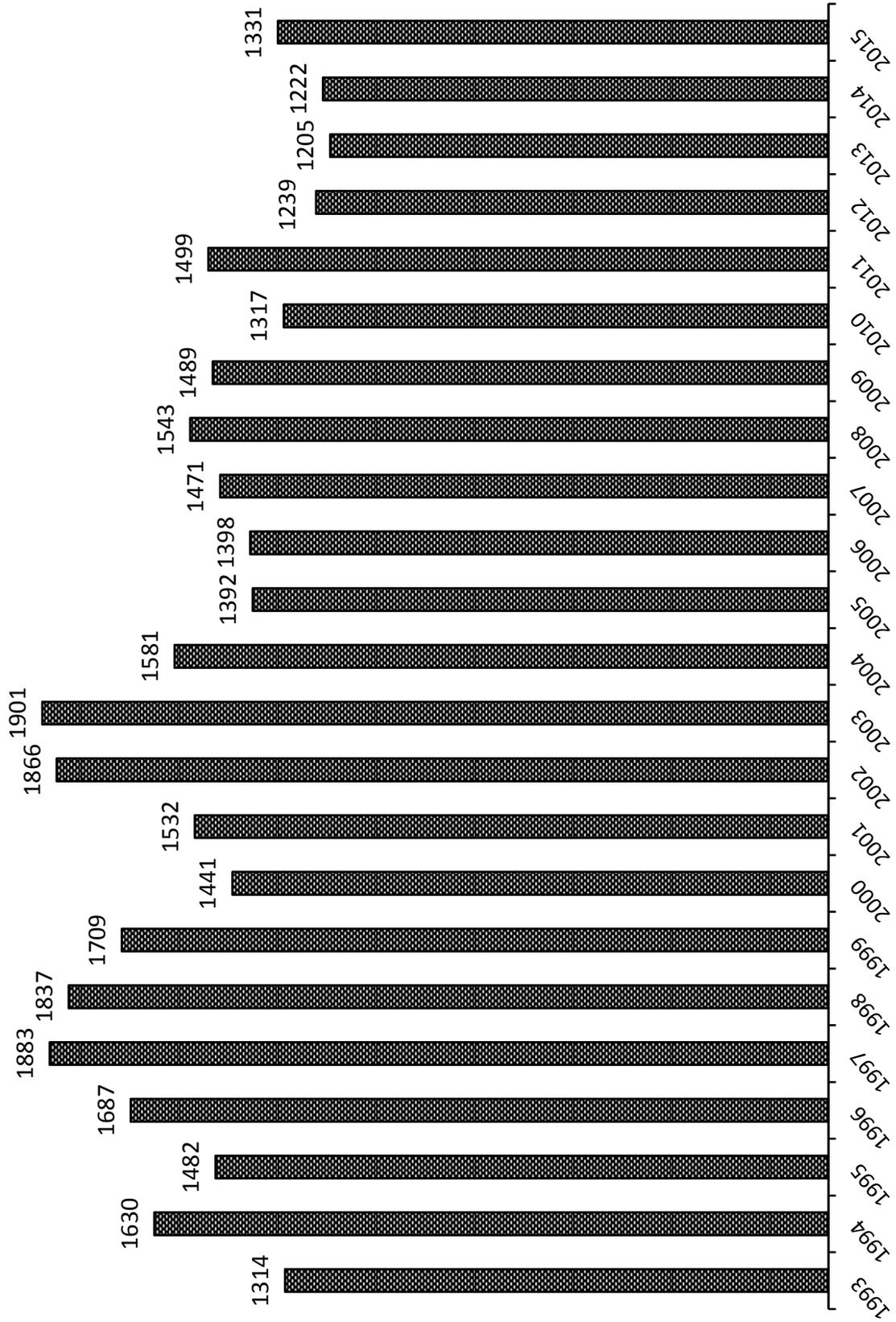
(January - December)



Fee Dispute Resolution Petitions Filed



Grievances Filed Annually



Surrenders and Disbarments (DHC, Council and Courts)

