

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
JULY 22, 2016**

GRIEVANCES

In 2010, 1317 grievance files were opened. In 2011, 1499 grievance files were opened. In 2012, 1239 grievance files were opened. In 2013, 1205 grievance files were opened. In 2014, 1222 grievance files were opened. In 2015, 1331 grievance files were opened. Since January 1, 790 grievance files have been opened.

ATTORNEY CLIENT ASSISTANCE PROGRAM

The ACAP staff responded to 3,078 phone calls from members of the public and contacted 710 lawyers in an effort to resolve concerns expressed by clients. Staff also responded to 422 emails and 494 letters from inmates.

There were 146 requests for fee dispute resolution filed during the quarter. One hundred-thirteen files were assigned to the two State Bar facilitators. The remaining 33 files were sent to district bar committees.

CASES COMPLETED SINCE APRIL 2016 MEETING

Completed Discipline Cases in the DHC

Jennifer N. Foster – 14 DHC 7

It was alleged that Foster, of Asheville, used expletives before a state court magistrate. The Court of Appeals reversed her contempt conviction. Hearing was delayed awaiting a ruling in Foster's federal court lawsuit against the magistrate and others, which was dismissed in March. After the hearing on July 8, the DHC announced its decision to impose a two year suspension stayed on numerous conditions.

Christopher W. Livingston – 15 DHC 15

The DHC concluded that Livingston, of White Oak, assisted a debt elimination organization in the unauthorized practice of law, attempted to share a legal fee with a non-lawyer, filed frivolous pleadings, knowingly made a false statement of material fact to a third person, engaged in conduct prejudicial to the administration of justice, and used means that had no substantial purpose other than to burden or embarrass a third person. The DHC suspended Livingston for five years. After serving two years active suspension, Livingston will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions. The written order has not yet been entered.

Sean David Soboleski and Jane (Soboleski) Dearwester – 15 DHC 52 A & B

Soboleski and Dearwester, husband and wife who practiced together in Asheville, did not properly reconcile their trust accounts, did not maintain accurate client ledgers, and did not properly maintain and disburse entrusted funds. As a result they disbursed client funds for purposes other than instructed by the client and received payments for legal fees before the fees were earned. They were suspended for three years. After serving six months active suspension, they will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions.

Marlon B. Messer – 15 DHC 53

Messer, of Altadena, California, aided a California business in the unauthorized practice of law and debt adjusting in multiple states. The DHC suspended him for two years. The suspension is stayed upon showing compliance with numerous conditions.

John Brooks Reitzel, Jr. – 15 DHC 54

Reitzel, of High Point, engaged in the unauthorized practice of law in South Carolina, which is a felony in that state. The DHC suspended him for four years. After serving two years active suspension, Reitzel will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions.

Dawn E. Ely – 16 DHC 1

The DHC concluded that Ely, of Atlanta, held herself out in online advertisements as able to offer in-house counsel to North Carolina and Georgia businesses even though she was administratively suspended at the time in both states and her business is not authorized to provide legal services in North Carolina. After a hearing on July 15, the DHC announced its decision to suspend Ely for five years. After serving two years active suspension, she will be eligible to petition for a stay of the balance upon showing compliance with numerous conditions.

John “Monte” Holmes - 16 DHC 5

Holmes, of Sanford, was convicted of a number of criminal offenses, including assault on a government official, in connection with an incident of extreme public intoxication. The DHC suspended him for three years. The suspension is stayed for three years upon showing compliance with numerous conditions.

V. Lamar Gudger III – 16 DHC 7

The State Bar alleged that Gudger, of Asheville, shared a legal fee with a non-lawyer, did not act with reasonable diligence and promptness when representing a client, did not maintain proper trust account records, did not properly manage and maintain entrusted client funds, and embezzled entrusted funds. Gudger is enjoined from handling entrusted funds. Gudger suffers from a disabling mental or physical condition. The DHC transferred Gudger to disability inactive status.

Michael Paul Crowe – 16 DHC 9

In two criminal cases, Crowe, of Winston Salem, subpoenaed State’s witnesses to be deposed in his office without notifying the ADA. He also engaged in a conflict of interest and dishonest conduct in an unrelated matter. He was suspended by the DHC for three years. After serving 18 months active suspension, Crowe will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions.

Keith C. Booker – 16 DHC 10

Booker, of China Grove, neglected multiple clients, unintentionally misappropriated entrusted funds, and did not maintain proper trust account records. He was suspended by the DHC for five years.

Sandra C. Kullman – 16 DHC 13

Kullmann, of Charlotte, commingled personal funds with entrusted funds, did not maintain client ledgers, did not reconcile her trust account, and did not properly maintain and disburse entrusted funds. She was suspended by the DHC for three years. The suspension is stayed for three years upon showing compliance with numerous conditions.

William I. Diggs – 16 DHC 15

Diggs, of Myrtle Beach, South Carolina, misappropriated entrusted funds totaling at least \$100,000. He was disbarred by the DHC.

Completed Discipline and Disability Proceedings in the Courts

Robert M. Chandler, Jr. of Rocky Mount surrendered his law license to the Wake County Superior Court and was disbarred. Chandler acknowledged that he misappropriated entrusted funds totaling at least \$117,300.

Scott McCormick of Winston-Salem surrendered his law license to the Wake County Superior Court and was disbarred. McCormick acknowledged that he misappropriated entrusted funds totaling at least \$3,000.

Orders of Reciprocal Discipline

There were no orders of reciprocal discipline entered this quarter.

Transfers to Disability Inactive Status

The DHC transferred **V. Lamar Gudger III** of Asheville to disability inactive status.

Interim Suspensions

No orders of interim suspension were entered this quarter.

Completed Petitions for Reinstatement/Stay - Uncontested

No uncontested petitions for reinstatement were completed this quarter.

Completed Petitions for Reinstatement/Stay - Contested

Richard S. Poe – 10CVS11027 & 16BCR1

Poe, from Charlotte, was disbarred by the Wake County Superior Court on June 30, 2010. Poe admitted that he improperly endorsed the firm's name on checks payable to his law firm employer and misappropriated the fees. The DHC recommended Poe's reinstatement. The matter will be on the Council's agenda when the court reporter delivers the transcript.

Completed Motions to Show Cause

There were no motions to show cause completed this quarter.

TROs and Preliminary Injunctions

The office obtained preliminary injunctions in Wake County Superior Court prohibiting **Lisa Dukelow** of Durham and **John F. Hanzel** of Cornelius from handling entrusted funds.

The office obtained a TRO and a preliminary injunction in Wake County Superior Court prohibiting **Michael J. Anderson** from practicing law until the discipline and disability cases pending against him before the DHC are concluded or until further order of the Court.

Surrenders to the Council

J. Hal Kinlaw, Jr. tendered his affidavit of surrender to the Council based upon his guilty plea to the felony offense of bank fraud in the United States District Court for the Eastern District of North Carolina. The surrender is on the agenda for the July 22 Council meeting.

PENDING DISCIPLINE AND DISABILITY CASES

Bradley R. Lamb – 07 DHC 28

Lamb, formerly of Pittsboro, was convicted in Florida of promoting the sexual performance of a child, lewd or lascivious exhibition, and solicitation of a child over the Internet, and is currently serving a 15 year prison sentence. The DHC stayed the proceedings until Lamb is released. His release date is currently forecasted for the fall of 2019, although if he continues to receive time off at the current rate he will probably be released in early 2018. He is on interim suspension.

Robert Melville, Jr. – 13 DHC 9

The Chair of the DHC entered an interim suspension of the law license of Lake Waccamaw lawyer Robert Melville. Melville pled guilty in federal court to the felonies of conspiracy to commit bank and wire fraud. The complaint has not been filed because Melville was transferred to disability inactive status.

Jerry R. Tillett – 15 DHC 7

It is alleged that Judge Tillett of Manteo engaged in conduct prejudicial to the administration of justice. On December 10, 2015, the DHC granted the State Bar's motion for summary judgment, concluding as a matter of law that Tillett violated Rule 8.4(d). The phase two hearing was scheduled for June 28-30. On May 27, 2016, the Supreme Court of North Carolina stayed the DHC case and issued a writ of certiorari to review the following issue: "Do the North Carolina State Bar Council and the Disciplinary Hearing Commission have the jurisdictional authority to discipline a judge of the General Court of Justice for conduct as a judge for which the judge has already been disciplined by the Judicial Standards Commission?" Oral argument is scheduled for August 30, 2016.

William E. Brown – 15 DHC 28

Brown, of Fayetteville, was convicted of failing to file a federal income tax return. He was recently released from incarceration resulting from this conviction. He is currently serving two active disciplinary suspensions imposed in prior cases by the DHC. Hearing has not been scheduled.

Michael C. Stamey – 15 DHC 33

It is alleged that Stamey, of Jamestown, misappropriated entrusted funds, abandoned his law practice, did not communicate with and did not act diligently and competently in representing clients, did not maintain proper trust account records, and did not respond to the Grievance Committee. He is enjoined from handling entrusted funds. Hearing is scheduled for October 13-14.

Edward D. Seltzer – 15 DHC 34

It is alleged that Seltzer, of Charlotte, exhibited gross failures of diligence in two estates for which he served as personal representative and that he neglected and failed to communicate with a criminal client. Hearing is scheduled for September 16.

Clifton J. Gray III - 15 DHC 38

It is alleged that Gray, of Greenville and Raleigh, was aggressive and disruptive in multiple cases, engaged in contempt of court on more than one occasion, was convicted of assault in a road-rage incident, neglected multiple clients, and chronically failed to respond to the State Bar. Hearing is scheduled for August 1-5.

Warren Ballentine - 15 DHC 39

Ballentine, of Durham, was convicted in the United States District Court for the Northern District of Illinois of mail fraud affecting a financial institution, wire fraud affecting a financial institution, two counts of bank fraud, and two counts of making false statements to financial institutions. The Chair of the DHC entered an interim suspension of his law license. Ballentine was served by publication. Hearing has not been scheduled.

Michael J. Anderson – 15 DHC 47 & 15 DHC 47D

It is alleged that Anderson, of Wilson, provided fabricated and misleading documents to the State Bar and/or did not correct a misapprehension he caused by such documents, did not keep proper trust account reconciliation records, did not respond to the State Bar, made statements with no substantial purpose other than to embarrass a third person, engaged in undignified or discourteous conduct degrading to a tribunal, and engaged in conduct prejudicial to the administration of justice. The hearing panel found probable cause to believe Anderson is disabled and stayed the discipline proceeding pending resolution of the disability issue. The Office of Counsel filed a disability complaint and the new hearing panel ordered Anderson to undergo an examination. Anderson has refused to undergo evaluation in defiance of several DHC orders. Meanwhile, the State Bar obtained a TRO and a preliminary injunction in Wake County Superior Court enjoining Anderson from practicing law until the discipline and disability cases are concluded or until further order of the Superior Court. The DHC stayed the disability case until Anderson complies with its orders to undergo an evaluation.

Amy E. Allred – 16 DHC 2

It is alleged that Allred, of Sherrill's Ford and formerly of Forsyth County, did not comply with a court order requiring her to submit to a psychological evaluation and a substance abuse assessment, filed frivolous lawsuits against numerous judges who played roles in her personal domestic cases, neglected and failed to communicate with clients, and charged clearly excessive fees. The complaint seeks to have Allred evaluated, seeks a determination whether Allred is disabled and, if she is determined not to be disabled, seeks imposition of professional discipline. Hearing was scheduled for April but was continued upon Allred's motion.

R. Kelly Calloway, Jr. – 16 DHC 3

It is alleged that Calloway, of Hendersonville, did not file and pay state taxes in 2009 and did not file tax returns or pay federal withholding and unemployment taxes for 6 years. Hearing was continued from April 27 and has not been rescheduled.

John I. Averitt – 16 DHC 4 & 16 DHC 4D

It is alleged that Averitt, of Cary, forged a letter purporting to be from the Augusta National Golf Club, falsely represented that his employer had eight tickets to the Masters Golf tournament, and sold the fictitious tickets on Craig's List. Hearing was scheduled for June 24, but when Averitt raised disability in his answer, the panel stayed the disciplinary proceeding and transferred Averitt to disability inactive status. A disability hearing is scheduled for October 20.

Michael Kyle McEnery – 16 DHC 6

It is alleged that while McEnery, of Raleigh, was in rehabilitation for heroin addiction, he broke into his friend's house and stole and pawned musical equipment to obtain money to buy drugs. Hearing is scheduled for July 29.

Lisa M. Dukelow – 16 DHC 8

Dukelow, of Durham, allegedly neglected several clients and failed to respond to the State Bar. Hearing is set for November 14-15.

Joseph Lee Levinson - 16 DHC 11

Levinson, of Benson, pled guilty to the felony offense of conspiracy to obtain money in the custody of a bank by false pretenses. The Chair of the DHC entered an order of interim suspension of his law license. Hearing has not been scheduled.

Thomas Tate – 16 DHC 14

It is alleged that Tate, of Apex, did not provide information about the rate or basis of his fee to a new client, was not diligent in his representation, did not communicate with the client, did not return the client's file, and made a false representation to the client about the file. Hearing has not been scheduled.

R. Alfred Patrick – 16 DHC 16

It is alleged that Patrick, of Greenville, misappropriated entrusted funds. Patrick is enjoined from handling entrusted funds. Hearing has not been scheduled.

Jesse W. Jones – 16 DHC 17

It is alleged that Jones yelled and cursed at opposing counsel and their clients and was otherwise disruptive on multiple occasions. Hearing is scheduled for October 6-7, 2016.

Mary M. Exum – 16 DHC 18

It is alleged that Exum, of Asheville, misappropriated entrusted funds, improperly solicited professional employment from a potential client, made misleading statements about her legal services, withheld a client's requested file materials to coerce the client to reimburse her for expenses, and disbursed entrusted funds contrary to a perfected lien. Hearing is scheduled for August 29 and 30, 2016.

Alvaro De La Calle – 16 DHC 19

It is alleged that De La Calle failed to supervise a paralegal in his office, collected a fee for legal services that were not provided by an attorney, aided another in the unauthorized practice of law, and made false representations during the grievance process. Hearing is scheduled for September 9, 2016.

Joseph M. Kosko – 16 DHC 20

Kosko allegedly failed to act with reasonable diligence in representing clients, failed to communicate with his clients, aided others in the unauthorized practice of law, knowingly disobeyed an order of a tribunal, and engaged in conduct prejudicial to the administration of justice. Hearing is scheduled for October 7, 2016.

Clarke K. Wittstruck – 16 DHC 21

It is alleged that Wittstruck, of Buncombe County, engaged in the unauthorized practice of law, neglected a client's case, failed to respond to the State Bar, and failed to timely file accountings in an estate. Hearing has not been scheduled.

Robert Weckworth – 16 DHC 22

Weckworth, of Guilford County, is alleged to have communicated with a person known to be represented by counsel, engaged in an *ex parte* communication, and filed a non-meritorious claim. Hearing has not been scheduled.

Peter R. Henry – 16 DHC 23

It is alleged that Henry, of Arden, did not communicate with clients and made inaccurate statements to a client about work purportedly performed. Hearing has not been scheduled.

Pending Motions to Show Cause

There are no pending motions to show cause.

Pending Petitions for Reinstatement/Stay - Uncontested

There are no pending uncontested petitions for reinstatement.

Pending Petitions for Reinstatement/Stay - Contested**Michael L. Yopp – 02BCS4 & 16BCR2**

Yopp surrendered his license to the Council and was disbarred on July 19, 2002. Yopp admitted that he misappropriated the entrusted funds of multiple clients. Hearing is scheduled for September 7, 2016.

TRUST ACCOUNTING COMPLIANCE PROGRAM

Thirty-two lawyers have successfully completed the TACP program since its inception. Peter currently supervises 13 participants. He continues to review random audits to evaluate potential candidates for the program.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 19 new files this quarter. The committee will address 22 files at its July meeting.

Prepaid legal services plan annual registration forms were sent out last quarter pursuant to 27 N.C.A.C. §1E .0307. All but one plan – 14PP01 – submitted the necessary forms and the \$100.00 annual renewal fee to qualify for registration for the 2016 year. Pursuant to 27 N.C.A.C. §1E .0312 and a vote of the Authorized Practice Committee, the Secretary of the State Bar issued plan 14PP01 a show cause order, giving the plan the opportunity to show why its registration should not be revoked. Efforts to serve the show cause order are ongoing.

One plan, 02PP05, submitted proposed amendments this quarter which were accepted for registration.

Two proposed prepaid legal services plans were submitted for registration this quarter. Counsel reviewed one of these plans, 16PP01, pursuant to 27 N.C.A.C. 1E, § .0305, and determined that the plan does not qualify to be registered for several reasons. The applicant submitted a modified application which counsel has not yet had an opportunity to review. Counsel is also reviewing the second application received this quarter.

The OOC continues to work with the Consumer Protection Division of the Attorney General's Office dealing with several out-of-state lawyers and law firms that promote debt adjusting and loan modification schemes. With limited exceptions, debt adjusting is illegal in North Carolina. Numerous marketing firms and lawyers engage in this practice.

Following is a list of pending, recently completed, and contemplated AP litigation:

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 original defendants from enforcing the statutes against it. CAI 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 original defendants' motions to dismiss and denied CAI's motion for preliminary injunction. Van Laningham Duncan represents the State Bar.

State of North Carolina *ex rel* Roy Cooper and North Carolina State Bar v. 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 (NC Business Court). In May 2013, the State Bar filed this action in Wake County Superior Court as co-plaintiff with the Consumer Protection Division of the North Carolina Department of Justice. The plaintiffs allege that all of the defendants other than Global Client Solutions operate collectively and interchangeably under various names that include the words “World Law.” The plaintiffs allege that the defendants draft and provide pleadings for debtors to file “*pro se*” and provide those debtors with scripts to use in court. The plaintiffs obtained a temporary restraining order in May 2013 and a preliminary injunction in June 2013 prohibiting the World Law 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. The case has been denominated exceptional and is assigned under Rule 2.1 to the Honorable James Gale. The plaintiffs amended the complaint to add Brad Haskins and WLS as defendants. Haskins and Swift Rock are in default. WLS filed articles of dissolution. Counsel for Scott and WLS have withdrawn. The plaintiffs took a voluntary dismissal without prejudice of their claims against Global Client Solutions after it was enjoined by the FTC from providing banking services to the other defendants. On the eve of taking depositions, Orion filed for Chapter 11 bankruptcy protection in Texas. The Business Court rejected Orion’s contention that the automatic stay prevents the plaintiffs proceeding with this action against any of the defendants. The Orion bankruptcy has been converted to Chapter 7 and the business is in liquidation. The Consumer Financial Protection Bureau (CFPB) filed a federal action against all of the defendants in Florida, raided Orion’s premises, obtained a preliminary injunction and froze the corporate and individual defendants’ assets. None of the defendants is currently doing business in North Carolina. Plaintiffs are working toward entry of default judgments and consent or summary judgments with the remaining parties. The Office of Counsel represents the State Bar.

NC State Bar v. Diane Carter (Wake County Superior Court). The State Bar obtained an injunction against Carter for attempting to represent others in lawsuits against a homeowners association. The Office of Counsel filed a motion to hold Carter in contempt of the injunction. Carter filed a responsive pleading demanding payment by State Bar employee David Johnson of “\$795,000,000,000.00 in silver coins.” On May 23, the Court found Carter in contempt and ordered that further contempt proceedings would be held if she continued to violate the injunction. She did not give notice of appeal. On June 7, the North Carolina Supreme Court dismissed Carter’s “Writ of Prohibition.” On June 20, Carter filed in the North Carolina Supreme Court a document entitled “Responsive Pleading Regarding Dismissal of 7 June 2016 and Notice of Appointment of Trustee.” The Office of Counsel represents the State Bar.

NC State Bar v. Kenneth Moore (Wake County Superior Court). The State Bar commenced this action seeking to enjoin the unauthorized practice of law by Moore’s business enterprise “Way More Post-Conviction Services,” which offers post-conviction services to criminal defendants. The court entered judgment for the State Bar on May 10, 2016 and defendant did not appeal. The Office of Counsel represented the State Bar.

NC State Bar v. Terry F. Sharpe, Sr. (Wake County Superior Court). At the April meeting, the Executive Committee authorized the Office of Counsel to file a lawsuit seeking injunctive relief against Terry F. Sharpe, Sr. Sharpe is a self-appointed “paralegal” who offers legal advice and representation. He operates a business under the name “Sharpe Services 4U, LLC.” He entered into a contract to represent a woman in a workers’ compensation claim. He has been cautioned on two prior occasions for similar conduct. The complaint has been served.

The Executive Committee authorized the Office of Counsel to file a lawsuit seeking injunctive relief against **Mortgage Information Services**, an Ohio business which allegedly attempts to close residential loans.

The Executive Committee authorized the Office of Counsel to file a lawsuit seeking injunctive relief against **South Mountain Group**, a real estate company run by a Maryland lawyer alleged to be engaged in the corporate practice of law by hiring lawyers to prepare deeds and handle other aspects of residential real estate closings.

OTHER OUTSIDE LITIGATION

Michael J. Anderson v. Governor Patrick McCrory, the North Carolina Department of Justice, Hooper & Thurston Chiropractic, the North Carolina State Bar and the Industrial Commission (Wake County Superior Court). Anderson is a defendant in a discipline and disability case pending before the DHC. He alleged that the defendants are engaged in a conspiracy. He alleged that the State Bar denied his right to due process and used the discipline process to silence him about the fact that some or all of the other defendants have made his client a slave and to conceal evidence of malfeasance. Anderson sought damages in excess of \$10,000 along with interest, costs and “disbursements.” The court allowed the State Bar’s motion to dismiss on July 1. The Office of Counsel represented the State Bar.

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). Myers asserted that the State Bar defendants, the North Carolina court system, and numerous Johnston County government officials violated her rights. She did not describe the alleged violation with particularity but it appeared 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 Court of Appeals. The Fourth Circuit dismissed that appeal as interlocutory. On January 19, 2016, the Court dismissed Myers’ claims against the remaining defendants. Myers’ second appeal to the Fourth Circuit is pending. The Office of Counsel represents the State Bar defendants.

Christopher Harper v. North Carolina State Bar (Industrial Commission State Tort Claim Action). Harper was disbarred by the DHC in November 2014. He gave notice of appeal but the DHC dismissed the appeal because Harper did not timely file a record. In November 2015, Harper filed a state tort claim action against the State Bar. Harper contends the State Bar’s counsel and investigator negligently disbarred him by presenting witnesses, including a State Bar employee, he contends testified falsely. Harper seeks \$1,000,000 for alleged “emotional distress, loss of enjoyment of life, loss of sleep, psychic numbing, loss of interest in vocation, loss of interest in the external world, personal inconvenience, loss of licenses in NC, SC, and membership in several federal courts.” The deputy commissioner dismissed the claim. Harper

appealed to the Full Commission but did not file a brief. As a result, the Full Commission dispensed with oral argument. The Attorney General represents the State Bar.

Christopher Harper v. North Carolina State Bar (Durham County Superior Court). This was the second lawsuit involving the State Bar that Harper filed in Durham County. Harper was disbarred by the DHC. He alleges that the witnesses in the DHC case including one State Bar employee committed perjury, that two State Bar employees assisted them in this alleged perjury, and that three State Bar employees manufactured evidence. He alleges that a fourth State Bar employee solicited a fraudulent Client Security Fund claim and advised the CSF to pay the claim. He mentions but makes no factual allegations about a fifth State Bar employee. He purports to assert claims under N.C.G.S. § 14-221.1 *et. seq* (altering, destroying, or stealing evidence of criminal conduct); 42 U.S.C. § 1983; 18 U.S.C. §§ 1505 (obstruction of proceedings under the Antitrust Civil Process Act), 1512 (witness tampering), 1621 (perjury), 1961 (federal RICO) and 401 (power of federal court to punish); N.C.G.S. §75D (state RICO statute); for an order for five State Bar employees to show cause why we shouldn't be disciplined for violation of Rule of Professional Conduct 8.4; for an order declaring his disbarment void *ab initio*; for an injunction preventing the State Bar from denying his privilege to practice law; for an injunction preventing the State Bar obtaining subrogation for CSF payments; for an Attorney General review of all of his allegations; and for Rule 11 sanctions totaling \$6,000,000 to compensate him for damages to his reputation. The court dismissed the complaint on May 23, 2016 and has not heard or ruled on Harper's motion for reconsideration. The Office of Counsel 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, 2015 challenging the DHC's decision not to allow live streaming of the trial in *North Carolina State Bar v. Mumma* and seeking an award of its expenses in bringing the action. Prior to a hearing on WRAL's motion for temporary restraining order, the parties reached a resolution of the dispute but the case is still pending. The court has not addressed the plaintiff's prayer for an award of attorney fees. The Attorney General represents the DHC.

Eugene Boyce v. NC State Bar (Wake County Superior Court). Boyce alleges that he filed a grievance against Roy Cooper for conduct that allegedly occurred in 2000 when Cooper was a candidate running against Boyce's son to become Attorney General of North Carolina. He seeks declaratory judgments that (1) the State Bar has a conflict in handling the grievance because the Attorney General represents the State Bar in various lawsuits and (2) the State Bar is obliged by law to refer the grievance to the courts for investigation and disciplinary action. He seeks an award of costs. On May 6, 2016, the court dismissed the complaint. Boyce gave notice of appeal. The State Bar is represented by Parker Poe Adams and Bernstein.

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 a lawyer who did not purport to be acting on behalf of WLS. After mediation, WLS withdrew the purported pending public records request and stated that it absolved the State Bar of the obligation to respond but it has not dismissed the complaint. WLS dissolved as a corporate entity and has abandoned this lawsuit. The Attorney General represents the State Bar.

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 seeks 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. He does not seek an award of damages. The case has been designated exceptional under General Rule of Practice 2.1 and has been assigned to Wake County Senior Resident Superior Court Judge Donald W. Stephens. The court denied Tillett’s motion for a preliminary injunction and indicated that it will retain jurisdiction of the lawsuit until the pending disciplinary action is resolved. Tillett filed an interlocutory appeal of the trial court’s denial of his motion for preliminary injunction but voluntarily dismissed that appeal on June 3, 2016 after the Supreme Court granted discretionary review of a jurisdictional issue in the pending disciplinary case. On July 11, 2016, Judge Stephens entered an order staying the case until the Supreme Court issues its decision. Van Laningham Duncan represents the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 25 claims on the agenda for the Board’s July 21 meeting.

There are three actions pending in superior court seeking reimbursement from disbarred lawyers for payments made by the CSF.

Disbursement Cases

One disbursement motion was filed in Superior Court during the quarter and is pending. Several disbursement motions are ready for hearing. The State Bar continues to disburse funds received from prior orders.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **Kenneth R. Berglund** of Cashiers and **Tracy Curtner** of Raleigh. A trustee was appointed to wind down the practice of **Brad Harrison Ferguson** of Waynesville who was transferred to disability inactive status by the Haywood County Superior Court.

The office helps all current trustees and helps members of the public in locating files of deceased, disbarred, disabled, and missing lawyers.

APPEALS

Completed Appeals

No appeals were completed this quarter.

Pending Appeals

NCSB v. David Sutton (13 DHC 11). In November 2014, the DHC suspended Greenville lawyer **David 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*. Oral argument was held on April 25, 2016. We await a decision.

NCSB v. Jerry R. Tillett (15 DHC 7). Tillett gave notice of appeal from two interlocutory orders. Both of those appeals have been dismissed. First, the Court of Appeals dismissed Tillett's interlocutory appeal of the order denying his motion to dismiss the DHC complaint pending against him. The Supreme Court also denied Tillett's petition for discretionary review seeking to bypass the Court of Appeals in that first appeal. Second, the Court of Appeals granted Tillett's motion to dismiss his appeal from the order denying his motion for judgment on the pleadings. On May 27, 2016, the Supreme Court granted *certiorari* to consider Tillett's issue concerning the jurisdiction of the State Bar Council and the DHC to discipline a judge for conduct while a judge for which Judicial Standards has issued discipline. Oral argument is scheduled for August 30, 2016.

NCSB v. Christopher Livingston (15 DHC 15). On February 11, 2016, Livingston filed notice of appeal from decisions announced by the DHC but not yet reduced to writing granting a protective order, denying a motion to compel discovery and quashing a subpoena. On April 21, the Court of Appeals denied Livingston's petition for writ of *supersedeas* to stay the DHC proceeding during this interlocutory appeal. Livingston's DHC trial was held as scheduled on May 17 and 18. Livingston appears to have abandoned this interlocutory appeal.

NCSB v. Meleisa Rush-Lane (15 DHC 1). On December 29, 2015, the DHC entered an order disbaring Rush-Lane. Among other things, the DHC found that Rush-Lane misappropriated entrusted funds and willfully failed to timely file tax returns for more than ten years. She withdrew her appeal on April 15.

PERSONNEL

Two rising third-year students – **Abby Moua**, from North Carolina Central, and **Tara Regimand**, from Campbell – joined the Office of Counsel for an eight week internship this summer and will attend the July Council meeting in Blowing Rock.

Lee Blood-Ramos joined the Office of Counsel as a paralegal on July 13 as a temp-to-perm. She replaces **Kristina Troskey** who left the State Bar to move to Delaware.

MISCELLANEOUS

Josh continues to teach Humanities at Wake Tech Community College. He also teaches legal research and writing at Campbell Law and regularly presents at the NCBA's Professionalism for New Attorneys programs and other CLEs.

Pat has been attending the NCCALJ's Investigation and Adjudication Committee meetings.

Leonor continues to serve on the NCBA Minorities in the Profession and Professionalism committees and on the 10th JD/WCBA Professionalism Committee, where she is co-chair of the Publications Subcommittee.

Carmen continues to serve as the Office of Counsel's liaison to the judiciary and as Vice-Chair of the WCBA Professionalism Committee. In the last quarter, Carmen presented at a CLE for child support lawyers at the School of Government and a CLE for juvenile defenders at the NCBA.

Brian continues to serve as vice-chair of the 10th JD/WCBA Memorial Committee. He teaches legal research and writing at Campbell Law and is a frequent guest lecturer at other law schools. In May, Brian spoke at the NCBA Professionalism for New Admittees Program. Brian also supervises the Office of Counsel's internship program.

Peter continues to give numerous trust account presentations across the state to lawyers and administrative professionals. He is a frequent guest lecturer in our law schools and conducts webinars on trust accounting. He is working with the NCBA to create an interactive, online trust account education program for lawyers to use free of charge. Peter writes a quarterly trust accounting article in the *Journal* and maintains a State Bar Twitter account to notify members of trust account scams that come to the State Bar's attention. Peter recently completed his first session as the State Bar's Legislative Liaison.

Katherine continues to serve on the NCBA Professionalism Committee. She made a CLE presentation in New Bern this quarter. She has been attending the NCCALJ's Professionalism Committee meetings.