



**The North Carolina State Bar**  
**Office of Counsel**

**2016**  
**Annual**  
**Report**

## *Office of Counsel Staff*

### LAWYERS

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Katherine E. Jean, Counsel	Ext. 276
Margaret T. Cloutier, Sr. Deputy Counsel	Ext. 239
A. Root Edmonson, Deputy Counsel	Ext. 229
Fern Gunn Simeon, Deputy Counsel	Ext. 258
David R. Johnson, Deputy Counsel	Ext. 230
Jennifer A. Porter, Deputy Counsel	Ext. 262
Carmen H. Bannon, Deputy Counsel	Ext. 283
Brian P.D. Oten, Deputy Counsel	Ext. 226
Leonor B. Hodge, Deputy Counsel	Ext. 299
Barry M. McNeill, Deputy Counsel	Ext. 298
Mary D. Winstead, Deputy Counsel	Ext. 204
G. Patrick Murphy, Deputy Counsel	Ext. 206
Alyssa M. Chen, Deputy Counsel	Ext. 293
Susannah B. Cox, Deputy Counsel	Ext. 235
Joshua T. Walthall, Deputy Counsel	Ext. 225
Maria J. Brown, Deputy Counsel	Ext. 213
Peter G. Bolac, Trust Account Compliance Counsel & Legislative Liaison	Ext. 282

### INVESTIGATORS

Joe Commisso, Director of Investigations	Ext. 200
Fred Patton, Investigator	Ext. 266
George Muench, Investigator	Ext. 284
Wayne Truax, Investigator	Ext. 292
Krista Carlson, Investigator	Ext. 224
Marty Coolidge, Investigator	Ext. 294
Mike Smith, Investigator	Ext. 265
Whit Ruark, Investigator	
Carolyn Page, Investigator	Ext. 285
Mark Gant, Investigator	Ext. 345
Randy Ross, Investigator, Client Security Fund	Ext. 201
Anne Parkin, Auditor	Ext. 259

### ADMINISTRATIVE STAFF

Heather Pattle, Administrator	Ext. 227
Becky Carroll, Paralegal	Ext. 234
Wondella Payne, Paralegal	Ext. 296
Melanie Kincaid, Paralegal	Ext. 233
Jennifer Slattery, Paralegal	Ext. 205
Brittany Wilson, Paralegal	Ext. 280
Jeffrey Lundgen, Paralegal	Ext. 120
Lee Blood-Ramos, Paralegal	Ext. 277
Lori Brooks, Administrative Assistant	Ext. 232

Joan Renken, Administrative Assistant	Ext. 295
Dawn Whaley, Administrative Assistant	Ext. 278
Chris Woods, Investigative Assistant	Ext. 222
Sonja Puryear, Investigative Clerk	Ext. 203

**ATTORNEY/CLIENT ASSISTANCE PROGRAM STAFF**

Luella Crane, Director & Certified Mediator	Ext. 251
Krista Bennett, Mediator	Ext. 228
Sandra Saxton, Public Liaison	Ext. 264
Judy Treadwell, Public Liaison	Ext. 260
Diane Melching, Administrative Assistant	Ext. 287

***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.

# 2016 ANNUAL REPORT OFFICE OF COUNSEL 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 2016 the staff responded to 12,251 calls from clients and various members of the general public. As a result of those calls, the ACAP staff contacted 3,153 lawyers in an attempt to resolve clients’ concerns. The ACAP staff also responded to 1,838 letters from inmates and 1,671 email messages from clients and lawyers.

The State Bar opened 594 fee dispute resolution files during 2016. Of those files, 146 files were assigned to the five judicial district fee dispute resolution committees. The remaining 448 were assigned to in-house facilitators.

## Authorized Practice Committee

The Authorized Practice Committee opened 87 investigation files in 2016, compared to 108 files opened in 2015, 100 files opened in 2014, and 80 in 2013. The committee resolved 97 files during 2016, compared to resolving 110 files during 2015 and 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 a prepaid legal service plan. During 2016, five proposed plans were submitted for registration; two were registered, two were denied, and the office is reviewing the fifth. Thirteen existing plans submitted amendments to existing plans this year; nine of these amendments were accepted and four were denied. One plan’s registration was revoked in 2016 for failing to comply with renewal requirements.

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 alleged that all of those defendants operate collectively and interchangeably under various names that include the words “World Law.” The plaintiffs allege that they drafted and provided pleadings for debtors to file “*pro se*” and provided 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 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. In

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 entered an injunction against all defendants and a receiver for the assets of the defendants. On December 12, 2016, the Court granted the State Bar and the State of North Carolina's motion for summary judgment against Orion. Plaintiffs' motion for default judgments against Swift Rock, Haskins, and WLS is currently pending. The Office of Counsel represents 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. In July 2016, the Office of Counsel obtained an order holding Carter in contempt.

In April 2016, the office was authorized to seek an injunction against **Terry F. Sharpe dba Sharpe Services 4U**. Sharpe, who is not licensed to practice law in North Carolina, undertook to represent a woman in a worker's compensation claim. He had received two prior letters of caution from the Committee. In December 2016, the court entered a consent order of permanent injunction.

In July 2016, the office was authorized to seek an injunction against **Thomas D'Arco d/b/a Infinity Legal Group**. D'Arco is a California attorney who the State Bar alleges provided loan modification services to North Carolina residents. The California State Bar has disciplined him for similar activities in other states. The complaint is ready for filing.

The office continues to work closely with the Consumer Protection Division of the North Carolina Attorney General's Office to prevent the unauthorized practice of law in North Carolina, particularly persons and entities that offer legal services in the areas of debt adjusting, loan modification, and preparation of living trusts for senior citizens.

### **Trust Accounting Compliance Program**

Fifteen lawyers currently participate in the Trust Accounting Compliance Program. In 2016, five lawyers successfully completed the program.

### **Grievance Committee Actions**

During 2016, the State Bar opened 1,375 grievance files, compared with 1,331 files opened in 2015.

Also in 2016, the office reviewed 11 direct mail solicitation letters. All of the reviewed letters involved minor violations of advertising ethics rules. One was resolved without opening a grievance file. The office opened grievances against ten lawyers. The office reviewed 14 direct mail solicitation letters in 2015. Eleven were resolved without opening grievance files and the office opened grievances against three lawyers.

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 1,265 grievance files during 2016. Of those, 941 were dismissed. Fourteen files were dismissed and retained because the respondent lawyers had been disbarred. Seventeen 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 2016, 39 files were dismissed with letters of caution and 77 were dismissed with letters of warning.

In 2016, the Grievance Committee issued admonitions in 46 files, reprimands in 24 files and censures in 12 files. Seventy-eight files involving 47 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 160 grievance files resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately 13 percent of the grievances considered by the committee in 2016. The committee entered two orders of reciprocal discipline, referred two lawyers to the Lawyer Assistance Program, and referred eleven lawyers to the Trust Accounting Compliance Program. At the end of 2016, twelve files 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 2016, the Office of Counsel completed a total of 56 disciplinary, reinstatement and show cause cases before the DHC, representing 98 files referred by the Grievance Committee. Of those, 21 were resolved by hearing or default judgment and 35 were resolved by consent. In 2015, the office completed 64 such cases of which 27 were resolved by trial and 37 were resolved by consent.

In 2016, the DHC entered 11 orders of disbarment. Eight lawyers misappropriated entrusted funds. One lawyer made a false statement to the State Bar, did not timely respond to a fee dispute, did not communicate with a client, disclosed confidential client information, and did not timely refund fees. One lawyer did not act with reasonable diligence in representing clients, did not communicate with clients, aided others in the unauthorized practice of law, made false and misleading statements, knowingly disobeyed an order of a tribunal, and engaged in conduct prejudicial to the administration of justice. One lawyer was convicted in the United States District Court for the Northern District of Illinois of mail and wire fraud affecting a financial institution, bank fraud, and making false statements to financial institutions.

In 2016, the DHC imposed two active suspensions, 14 suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 15 suspensions entirely stayed upon the lawyer's compliance with various conditions. The office filed a show cause petition against two lawyers and those hearings were pending as of the end of 2016. The DHC censured one lawyer, reprimanded one lawyer, and admonished one lawyer. One lawyer was transferred to disability inactive status by the DHC and an interim suspension of one lawyer's license was entered. In one case, the DHC reconsidered its decision before the final order was entered and dismissed the case.

## 2. Petitions for Reinstatement and for Stay

In 2016, the DHC reinstated two suspended lawyers and one lawyer who was on disability inactive status. In the cases of three lawyers who had served portions of their suspensions, the DHC entered orders staying the balance of the suspensions. One defendant withdrew his petition.

## **Actions Before the State Bar Council**

### 1. Tenders of Surrender of License

In 2016, three lawyers surrendered their law licenses to the State Bar Council and were disbarred. One lawyer misappropriated entrusted funds. One lawyer was convicted of felony stalking and multiple counts of misdemeanor harassment and violation of a protective order in Massachusetts. One lawyer pled guilty to the felony offense of bank fraud in the United States District Court for the Eastern District of North Carolina. Six lawyers surrendered their law licenses and were disbarred by the Council during 2015.

### 2. Reinstatement Proceedings

In 2016, the Council held a reinstatement hearing for one disbarred lawyer seeking reinstatement. After a hearing, the Council voted to accept the DHC's recommendation and reinstated 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.

Five suspended lawyers filed reinstatement petitions with the Secretary in 2016. The Secretary reinstated two lawyers. The office objected to three petitions.

## Actions Before the State Trial Courts

### 1. Judicial Disbarments

In 2016, four lawyers were disbarred by the Wake County Superior Court. Three lawyers misappropriated entrusted funds. One lawyer entered a plea of guilty in Charleston County, South Carolina, to one felony count of pointing and presenting firearms at a person, one misdemeanor count of unlawful carrying of a pistol, and one misdemeanor count of possession of cocaine.

### 2. Injunction Proceedings

During 2016, the Office of Counsel obtained injunctions prohibiting 17 lawyers from handling entrusted funds, compared with 20 such injunctions in 2015. The office also obtained one injunction prohibiting one lawyer from practicing law and obtained one injunction prohibiting another lawyer from practicing law and from being alone with female clients, potential clients, or witnesses.

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

In 2016, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 22 lawyers. Of that number, one lawyer abandoned her practice, one lawyer was suspended by the DHC, one lawyer suffered physical conditions that made him unavailable to clients, two lawyers were disabled, and 17 lawyers had died. The State Bar filed 19 trustee petitions in 2015.

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

Two lawyers were reprimanded by the Wake County Superior Court. In one file, the Court found that the lawyer received ten payments that exceeded the amounts he had billed for work performed for his client and deposited these payments in his operating account. The excess money paid by the client remained entrusted property and should have been deposited in his firm's trust account until earned. In the other file, the lawyer checked out a court file and, in an effort to correct an affidavit that, as filed, contained a typographical error, she removed the first page of the affidavit and replaced it with a corrected first page. She did not return the page she removed to the file. The court found her conduct was mitigated by her inexperience, her lack of dishonest motive, and her lack of personal gain.

One lawyer was transferred to disability inactive status by the Haywood County Superior Court.

An interim suspension on one lawyer's license was entered by the Brunswick County Superior Court.



## 5. Miscellaneous

As usual, in 2016 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 three cases, the State Bar is or was represented by private counsel.

At the end of 2016, the office had four 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 2016:

**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 the defendant in a discipline and disability case pending in the DHC. Anderson alleged that the State Bar is using the discipline process to silence him about the fact that some or all of the other defendants have made his client a slave. The court allowed the State Bar's motion to dismiss. The Office of Counsel represented 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 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 the defendant in a pending DHC case. He sought 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 sought to enjoin the DHC action and sought costs and attorney fees. The case was designated exceptional under General Rule of Practice 2.1 and assigned to Wake County Senior Resident Superior Court Judge Donald W. Stephens. The trial court denied Tillett's motion for a preliminary injunction and indicated that it would retain jurisdiction of the lawsuit until the DHC action is resolved. The Supreme Court granted discretionary review of a jurisdictional issue in the disciplinary case and stayed this lawsuit pending its decision. On December 21, 2016, the Supreme Court issued its decision that the DHC does not have

jurisdiction to discipline a sitting judge for conduct engaged in while a judge when the judge has been disciplined by the Judicial Standards Commission and ordered the DHC to dismiss the disciplinary case with prejudice. On December 29, 2016, Judge Tillett filed a motion to lift the stay in this case so he can file a voluntary dismissal without prejudice, stating that this action is now moot. The State Bar notified the court that the State Bar does not oppose Judge Tillett's motion to lift the stay. The Office of Counsel believes that, when the mandate issues, the DHC will dismiss the disciplinary action. Van Laningham Duncan represents the State Bar.

**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 purported 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. The Full Commission dispensed with oral argument and dismissed the claim. The time to appeal has expired. The Attorney General represented the State Bar.

**Christopher Harper v. North Carolina State Bar (Durham County Superior Court).** This is the second lawsuit Harper filed against the State Bar in Durham County. Harper was disbarred by the DHC. He alleged that the witnesses 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 alleged that a fourth State Bar employee solicited a fraudulent Client Security Fund claim and advised the CSF to pay the claim. He mentioned but made no factual allegations about a fifth employee. He purported 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 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. The Office of Counsel represented 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 represented 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 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 and an award of costs. The court dismissed the complaint. The State Bar was represented by Parker Poe Adams and Bernstein. Boyce gave notice of appeal. Oral argument is scheduled for February 7, 2017. The Office of Counsel represents the State Bar on appeal.

**James Ronald Peggs v. North Carolina State Bar (Industrial Commission, State Tort Claim Action).** The plaintiff identifies himself as “Trustee and Trustee Board of Grave Stone International Express Trust,” a purported trust formed in an effort to defeat a foreclosure. He alleges that the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. The plaintiff alleged that the clerk of court and three lawyers for the trustee were agents of the State Bar but alleged no facts that could sustain that claim. The deputy commissioner dismissed the complaint with prejudice on January 12, 2017. The Attorney General represented the State Bar.

### **Actions Before the State Appellate Courts**

The office represented the State Bar in nine appellate cases in 2016.

**NCSB v. Tracey Cline (12 DHC 22)** In 2012, the State Bar filed a disciplinary complaint against Cline for conduct that occurred while she was District Attorney for the 14<sup>th</sup> 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. The DHC dismissed the appeal.

**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. The Court of Appeals affirmed on October 18, 2016. Sutton filed a notice of appeal to the North

Carolina Supreme Court, contending that the case involves substantial constitutional questions. The State Bar's motion to dismiss the appeal is pending. The Office of Counsel represents the State Bar.

**NCSB v. Christopher Harper (13 DHC 29).** In November 2014, the DHC disbarred Harper. In December 2015, the DHC denied Harper's post-trial motions for a new hearing and to vacate the order of disbarment. Harper filed notice of appeal but has not perfected his appeal.

**NCSB v. Jennifer Foster (14 DHC 7).** In September 2016, the DHC suspended Asheville lawyer Jennifer Nicole Foster for two years. The suspension is stayed upon her compliance with numerous conditions. The DHC found that Foster engaged in conduct degrading to a tribunal and prejudicial to the administration of justice by using profanity when addressing a magistrate. Foster appealed. The parties await delivery of the transcript. The Office of Counsel represents the State Bar.

**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, 2016.

**NCSB v. Jerry R. Tillett (15 DHC 7).** On May 27, 2016, the Supreme Court stayed the DHC case pending against Judge Jerry Tillett 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?" On December 21, 2016, the Supreme Court issued its opinion answering that question in the negative. The Supreme Court reversed the DHC's denial of Tillett's motion to dismiss and remanded the case to the DHC with instructions to dismiss the State Bar's complaint with prejudice. The Office of Counsel represented the State Bar.

**NCSB v. Christopher Livingston (15 DHC 15).** On July 14, 2016, the DHC entered an order suspending Livingston for five years. Livingston will be eligible to petition for a stay of the balance after serving two years active. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. The Court of Appeals denied Livingston's petition to stay the DHC order pending appeal. Livingston has served his proposed record on appeal. The Office of Counsel represents the State Bar.

**NCSB v. Clifton Gray (15 DHC 38).** In September 2016, the DHC suspended Raleigh lawyer Clifton J. Gray, III for five years. He will be eligible to petition for a stay of the last year upon demonstrating compliance with numerous conditions. The DHC found that Gray disrupted court proceedings, was held in contempt of court, and was convicted of brandishing a gun at members of the public on a roadway. Gray gave notice of appeal on October 17. Gray gave a second notice of appeal on December 15. The Court denied Gray's motion to require the State Bar to bear the expense of providing him a trial transcript. The Office of Counsel represents the State Bar.

**NCSB v. Dawn Ely (16 DHC 1).** In August 2016, the DHC suspended Dawn Ely for five years. After serving two years active, she will be eligible to petition for a stay of the balance on demonstrating compliance with numerous conditions. Ely, licensed in North Carolina and in Georgia, runs a business that offers to provide legal services to other businesses provided by Ely and other attorneys. Ely offered these services even though she had been transferred to inactive status. The parties await delivery of the transcript. The Office of Counsel represents the State Bar.

### **Actions Before the Federal Courts**

**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 District 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 issued an ethics advisory 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. The parties are engaged in discovery. Van Laningham Duncan represents 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 filed a lawsuit claiming that the State Bar defendants, the North Carolina court system, and Johnston County government officials violated her rights during her 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. In January 2016, the court dismissed Myers' claims against the remaining defendants and Myers again appealed. In December 2016, the Fourth Circuit dismissed her appeal. The Office of Counsel represented the State Bar defendants.

**David S. Harless v. Root Edmonson et al (US District Court for the Southern District of West Virginia).** In 2005, David S. Harless was transferred to disability inactive status. Harless' petitions for reinstatement to active status were denied in 2010 and 2012 because he did not demonstrate that he was no longer disabled. The Office of Counsel learned that the United States District Court for the Southern District of West Virginia dismissed a lawsuit Harless filed against State Bar employees Root Edmonson and Jennifer Porter, among others. The court characterized the complaint as "incoherent, fanciful ramblings which lack any arguable basis in law or fact." The complaint had not been served on Edmonson or Porter.

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

**COUNCIL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Karla W. Simon	16BCS1	01/08/2016
Jack B. Styles	16BCS2	04/22/2016
Joseph Hall Kinlaw, Jr.	16BCS3	07/22/2016

**JUDICIAL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Tiffany L. Ashhurst	16CVS12398	04/04/2016
Robert M. Chandler, Jr.	15CVS016674	08/10/2016
Scott Justin McCormick	15CVS15435	08/13/2016
Robert J. Howell	16M2834	09/07/2016

**JUDICIAL DISCIPLINE & DISABILITY**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline/Disability</u>
Alfred P. Carlton, Jr.	15R455	Reprimand
Brad Harrison Ferguson	16SP41	Disability Inactive
Michael J. Anderson	16CVS6067	Order of Preliminary Injunction
Christian Scott Mathis	16M555	Interim Suspension
Ihuoma Igboanugo	16R573	Reprimand

**RECIPROCAL DISCIPLINE**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
Joanne M. Denison	15G0956	3 year suspension; must also be reinstated in Illinois
Christopher J. Seufert	15G1122	Reprimand

**TRANSFERS TO DISABILITY INACTIVE STATUS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Transfer</u>
Judith C. Fraser	16D1	02/08/2016
Hallett Sydney Ward	16D2	09/29/2016
Raymond M. Sykes, Jr.	08G1335 & 08G1532	09/14/2016

**BEFORE THE DISCIPLINARY HEARING COMMISSION**

**Completed Discipline & Disability Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Christopher N. Heiskell	15DHC37	Disbarred (consent)
Robert E. Griffin	15DHC44	Disbarred (hearing)
Devin Ferree Thomas	15DHC45	Disbarred (hearing/default)
Hugh F. McManus, IV	16DHC12	Disbarred (hearing/default)
William I. Diggs	16DHC15	Disbarred (hearing/default)
Donna Karen Cody	16DHC24	Disbarred (consent)
Joseph Kosko	16DHC20	Disbarred (hearing)
Warren Ballentine	15DHC39	Disbarred (hearing/default)
Michael C. Stamey	15DHC33	Disbarred (hearing/default)
Peter F. Chastain	16DHC29	Disbarred (hearing/default)
R. Alfred Patrick	16DHC16	Disbarred (hearing/default)
Keith C. Booker	16DHC10	5 year suspension (consent)
Clarke K. Wittstruck	16DHC21	2 year suspension (consent)
Clifton J. Gray, III	15DHC38	5 year suspension; possible stay after 4 years (hearing)
Jonathan S. McElroy	15DHC26	5 year suspension; possible stay after 3 years (consent)
Dawn E. Ely	16DHC1	5 year suspension; possible stay after 2 years (hearing)
Christopher W. Livingston	15DHC15	5 year suspension; possible stay after 2 years (consent)

Kevin P. Byrnes	15DHC50	5 year suspension; possible stay after 2 years (consent)
Thomas S. Hicks	15DHC16	5 year suspension; possible stay after 18 months (hearing)
Michelle Hickerson	15DHC51	5 year suspension; possible stay after 1 year (consent)
John Brooks Reitzel, Jr.	15DHC54	4 year suspension; possible stay after 2 years (hearing)
R. Kelly Calloway, Jr.	16DHC3	4 year suspension; possible stay after 1 year (consent)
Michael Paul Crowe	16DHC9	3 year suspension; possible stay after 18 months (hearing)
Jonathan Silverman	15DHC48	3 year suspension; possible stay after 18 months (consent)
Sean D. Soboleski	15DHC52A	3 year suspension; possible stay after 6 months (consent)
Jane Dearwester Soboleski	15DHC52B	3 year suspension; possible stay after 6 months (consent)
Shaun L. Hayes	16CDHC38	2 year suspension; possible stay after 1 year (consent)
Michael K. McEnery	16DHC6	5 year suspension; stayed 5 years (hearing)
Dan L. Merrell	15DHC12	4 year suspension; stayed 4 years (hearing)
Bridgette D. Johnson	15DHC42	3 year suspension; stayed 3 years (consent)
John M. Holmes, Jr.	16DHC5	3 year suspension; stayed 3 years (consent)
Sandra C. Kullmann	16DHC13	3 year suspension; stayed 3 years (consent)



Peter R. Henry	16DHC23	3 year suspension; stayed 3 years (consent)
Darryl G. Smith	16DHC28	3 year suspension; stayed 3 years (consent)
Michael S. Williamson	16DHC27	3 year suspension; stayed 3 years (consent)
Wade H. Leonard, Jr.	15DHC40	2 year suspension; stayed 2 years (consent)
Marlon Brent Messer	15DHC53	2 year suspension; stayed 2 years (consent)
Jennifer Nicole Foster	14DHC7	2 year suspension; stayed 2 years (hearing)
Michael C. Casey	16DHC39	2 year suspension; stayed 2 years (consent)
Katherine Heath Pekman	15DHC41	1 year suspension; stayed 3 years (consent)
Nathan M. J. Workman	15DHC49	1 year suspension; stayed 3 years (consent)
Georgia S. Nixon	16DHC25	1 year suspension; stayed 2 years (consent)
Thomas A. Tate	16DHC14	censure (consent)
Edward D. Seltzer	15DHC34	reprimand (consent)
Christine C. Mumma	15DHC20	admonition (hearing)
V. Lamar Gudger, III	16DHC7	disability inactive (consent)
Cassandra Stubbs	15DHC8	dismissed (consent)
Joseph Lee Levinson	16DHC11	interim suspension (consent)

### **Completed Show Cause Hearings**

There were no show cause hearings in 2016.

### Completed Reinstatement Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Dawn Johnson Warren	12DHC14 & 15BSR12	reinstated by DHC (consent)
Janet P. Reed	09DHC13 & 16BSR1	reinstated by Secretary (consent)
Stephen L. Snyder	14D1 & 15RD1	reinstated by DHC (consent)
William Wallace Respass	14DHC8 & 14DHC8R	reinstated by DHC; remaining suspension stayed (hearing)
Paul B. Brock	15DHC10 & 16BSR4	reinstated by DHC; remaining suspension stayed (consent)
Porter W. Staples	10DHC33 & 16BSR2	reinstated by DHC (hearing)
Steven B. DeCillis	12DHC25	petition dismissed upon motion by defendant
Richard S. Poe	10CV011027 & 16 BCR 1	reinstated by Council (hearing)
Jeffrey R. Baker	15DHC14 & 16BSR5	reinstated by Secretary (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
William Brown	15DHC28	02/24/2017
Michael Anderson	15DHC47	stayed
Amy Allred	16DHC2	not scheduled
James I. Averitt	16DHC4	not scheduled
Lisa M. Dukelow	16DHC8	not scheduled
Joseph Lee Levinson	16DHC11	not scheduled
Jesse W. Jones	16 DHC17	02/16/2017
Mary M. Exum	16DHC18	02/09-10/2017
Alvaro De La Calle	16DHC19	01/13/2017
Robert Weckworth	16DHC22	not scheduled
Scott S. Dorman	16DHC26	not scheduled
David H. Harris, Jr.	16DHC30	not scheduled
Derek R. Fletcher	16DHC31	not scheduled
Leonard D. Tucker	16DHC34	04/27-28/2017
Paul Blake	16DHC35	03/16-17/2017
Gregory Perry	16DHC36	03/9-10/2017
Jerry Braswell	16DHC39	03/03/2017

Craig S. Asbill	16DHC40	not scheduled
Scott Shelton	17DHC1	not scheduled

**Pending Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Michael L. Yopp	02BCS4 & 16BCR2	01/27/2017
Jonathan A. McCullum	10BCS2 & 16 BCR3	03/10/2017
Robert J. Burford	11DHC3 & 16BSR6	not scheduled

**Pending Show Cause Hearings**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
John Monte Holmes	16DHC5 & 16DHC5SC	01/20/2017
Dennis H. Sullivan, Jr.	12DHC1 & 12DHC1SC	01/13/2017

**BEFORE THE STATE TRIAL COURTS**

**Pending Disciplinary Actions in the State Courts**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Colleen Janssen	Wake Co. Sup. Ct. 16 M 3240	not scheduled yet

**Trustees Appointed in 2016**

<u>Lawyer</u>	<u>Reason Trustee Sought</u>
Richard Charles Forman	Deceased
Jan Stephen Gray	Deceased
David W. Norville	Deceased
Sharon Rose Britt	Disabled
Thomas Billy Rallings	Deceased
Kenneth R. Berglund	Deceased
Brad Harrison Ferguson	Disabled
Tracy C. Curtner	Deceased
Billy R. Craig	Deceased
Sergei (Serge) Semyrog	Deceased
Douglas Milton Holmes	Deceased
Gustavus L. Donnelly	Deceased
Robert H. Owen, III	Deceased
David R. Crawford	Deceased
James A. Vinson III	Deceased
Reginald Lee Yates	Deceased
Larry Harris	Declining health
Wayne E. Crumwell	Deceased
John. W. Gamble	Deceased
Marquis D. Street	Deceased

Clifton J. Gray, III  
Lisa M. Dukelow

Suspended  
Abandonment

**TROs and Preliminary Injunctions Obtained in 2016**

<u>Lawyer</u>	<u>Date of Injunction</u>
Paul N. Blake, III, Wilson	02/04/2016
Carson W. Freeman, Charlotte	02/29/2016
Tracy C. Curtner, Raleigh	03/04/2016
Carl Matthew Coxe, Jacksonville	04/08/2016
Michael J. Anderson, Wilson	05/23/2016
Lisa M. Dukelow, Durham	06/01/2016
John F. Hanzel, Cornelius	07/14/2016
Gary S. Leigh, Asheville	08/02/2016
Carlos D. Watson, Charlotte	09/07/2016
Johnny S. Gaskins, Raleigh	09/07/2016
Charles L. Bateman, Jr., Chapel Hill	09/15/2016
Mital M. Patel, Raleigh	10/19/2016
Adam L. Baker, Raleigh	10/24/2016
Christopher M. O'Neal, Wilmore, KY	10/31/2016
Scott H. Shelton, Hendersonville	11/08/2016
Michael Eldredge, Lexington	11/14/2016
Philip S. Adkins, Snow Camp	11/17/2016
Christopher E. Greene, Charlotte	12/01/2016
Jonathan W. B. Leonard, Winston-Salem	12/20/2016

**BEFORE THE GRIEVANCE COMMITTEE**

Totals for 2016

Total Grievance Files Opened – 1,375

Total Files Considered by Committee –1,265

Dismissals – 941

Files Dismissed & Retained –14

Files Abated – 17

Files referred to the Lawyers Assistance Program – 2

Files referred to the Trust Accounting Compliance Program - 11

Files Dismissed with Letters of Caution – 39

Files Dismissed with Letters of Warning – 77

Files issued Admonitions – 46

Files issued Reprimands – 24

Files issued Censures – 12

Files issued Reciprocal Discipline – 2

Files referred to DHC – 78

Grievance Totals for January 2016 Meeting

241	files were dismissed
0	files were dismissed and retained
0	files were abated
3	files were continued
1	file was denied reconsideration
0	lawyers were referred to the Lawyer Assistance Program
8	lawyers were referred to the Trust Accounting Compliance Program
2	lawyers received reciprocal discipline
12	lawyers received letters of caution
22	lawyers received letters of warning
5	lawyers received admonitions
6	lawyers received reprimands
3	lawyers received censures
11	lawyers were referred to the Disciplinary Hearing Commission

Grievance Totals for April 2016 Meeting

244	files were dismissed
11	files were dismissed and retained
5	files were abated
3	files were continued
1	lawyer was referred to the Lawyer Assistance Program
1	lawyer was referred to the Trust Accounting Compliance Program
20	lawyers received letters of caution
21	lawyers received letters of warning
10	lawyers received admonitions
2	lawyers received reprimands
6	lawyers received censures
17	lawyers were referred to the Disciplinary Hearing Commission

Grievance Totals for July 2016 Meeting

190	files were dismissed
1	files were dismissed and retained
0	files were abated
5	files were continued
1	file was denied reconsideration
3	lawyers were referred to the Lawyer Assistance Program
3	lawyers were referred to the Trust Accounting Compliance Program
3	lawyers received letters of caution
14	lawyers received letters of warning
14	lawyers received admonitions
6	lawyers received reprimands
6	lawyers received censures
12	lawyers were referred to the Disciplinary Hearing Commission

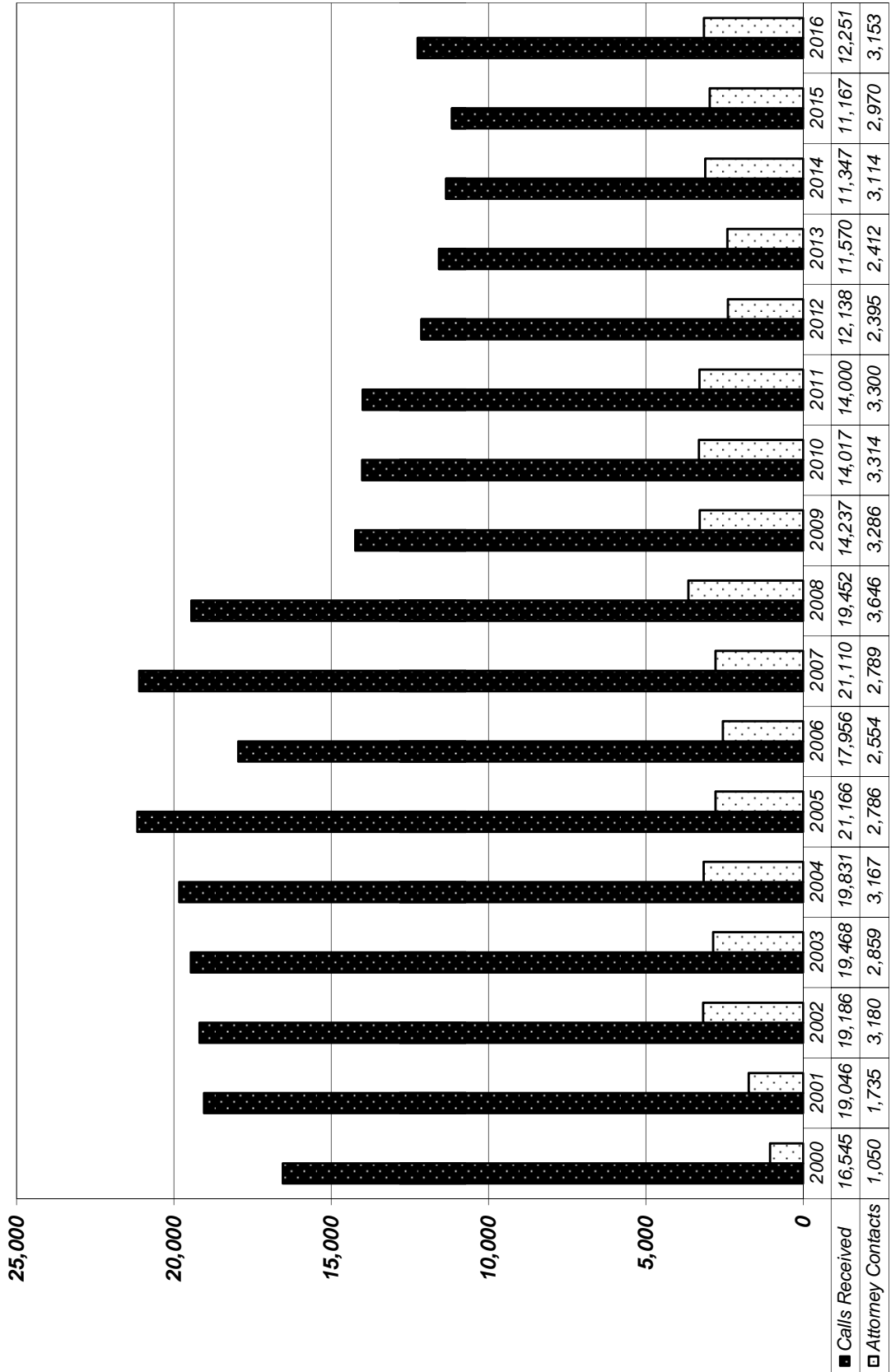
Grievance Totals for October 2016 Meeting

297	files were dismissed
2	files were dismissed and retained
7	files were abated
2	files were continued
0	lawyers were referred to the Lawyer Assistance Program
7	lawyers were referred to the Trust Accounting Compliance Program
3	lawyers received letters of caution
20	lawyers received letters of warning
9	lawyers received admonitions
7	lawyers received reprimands
1	lawyer received a censure
4	lawyers were referred to the Disciplinary Hearing Commission

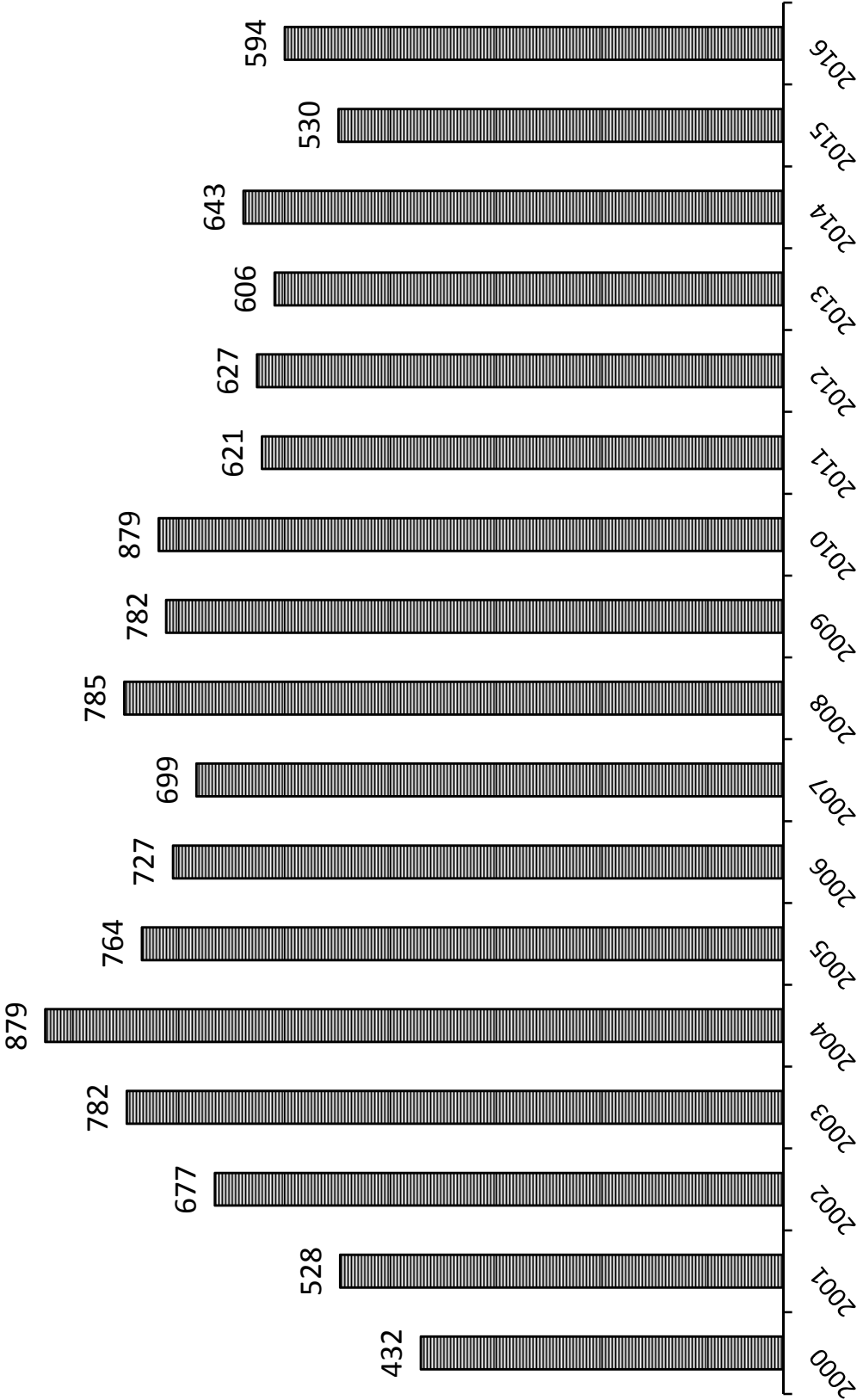
# ATTORNEY CLIENT ASSISTANCE PROGRAM

## Calls Received and Attorney Contacts

(January - December)

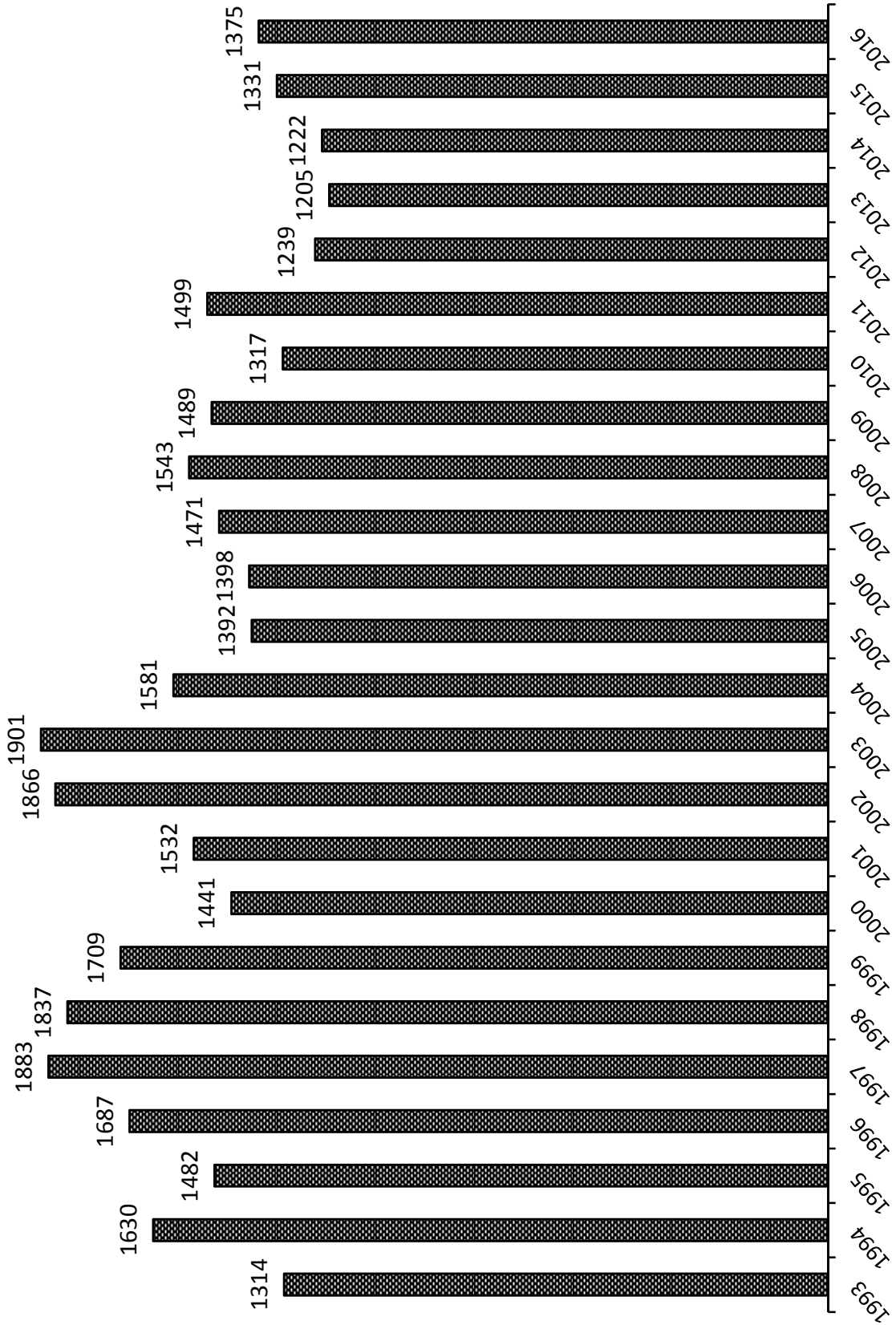


# Fee Dispute Resolution Petitions Filed





# Grievances Filed Annually



## Surrenders and Disbarments (DHC, Council and Courts)

