

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
JANUARY 26, 2018**

ATTORNEY CLIENT ASSISTANCE PROGRAM

The ACAP staff responded to 3,136 phone calls from members of the public and contacted 972 lawyers in an effort to resolve concerns expressed by members of the public. Staff also responded to 663 emails and 559 letters from inmates. During the same quarter of 2016, staff responded to 2,651 phone calls, contacted 768 lawyers and responded to 423 emails and 394 letters from inmates.

The office received 148 requests for fee dispute resolution during the quarter. One hundred twenty-five files were assigned to the two State Bar facilitators. The remaining 23 files were assigned to district bar committees. During the same quarter in 2016, the office received 151 requests for fee dispute resolution of which 106 files were assigned to State Bar facilitators and 45 were assigned to district bar committees.

GRIEVANCES

In 2014, 1,222 grievance files were opened. In 2015, 1,331 grievance files were opened. In 2016, 1,375 grievance files were opened. In 2017, 1,305 grievance files were opened. Since January 1, 2018, 49 grievance files have been opened.

As of January 22, 883 grievances were pending. One hundred-sixteen grievances were stayed. Forty-two pending files were in the judicial district grievance committees or had been returned by the district grievance committees within the past 30 days. The OOC had made its recommendation in 166 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 559 files in which no recommendation has yet been made, 160 were more than six months old. Since the October 2017 meeting, 92 files were dismissed by the Grievance chair and 82 files were dismissed by the Grievance chair and a vice chair.

Fern reviewed two lawyers' television advertising and opened one grievance file.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

The OOC completed four discipline cases involving four lawyers in the DHC this quarter.

Carlos B. Watson – 17 DHC 18

Watson, of Charlotte, embezzled entrusted funds and violated multiple other trust accounting rules. He was disbarred by the DHC.

Darnell Parker – 17 DHC 30

Parker, of Greenville, violated multiple trust accounting rules. The DHC suspended him for two years. The suspension is stayed for two years upon Parker's compliance with numerous conditions.

Cowles Liipfert – 17 DHC 34

Liipfert, of Winston Salem, willfully failed to file state income tax returns and to timely pay his state tax obligations for tax years 2012, 2013, and 2014. The DHC suspended him for two years. The suspension is stayed for two years upon Liipfert's compliance with numerous conditions.

Darin P. Meece – 17 DHC 36

Meece, of Durham, forged the name of a former client to a corrective deed and notarized his forgery of the signature. The DHC suspended him for one year.

Completed Surrenders to the Council

Mital M. Patel of Raleigh surrendered his law license and was disbarred by the Council at the October meeting. He acknowledged that he misappropriated entrusted funds totaling at least \$3,300.

Completed Discipline and Disability Proceedings in the Courts

Johnny S. Gaskins of Raleigh surrendered his law license and was disbarred by the Wake County Superior Court. Gaskins acknowledged that he forged signatures on the back of a settlement check with the intent to defraud the bank, failed to deposit the check into a trust account, and embezzled the proceeds of the check.

Charles R. Gurley of Goldsboro was held in contempt of court by the Wake County Superior Court for failing to provide trust account records pursuant to an Order of Preliminary Injunction. The court enjoined Gurley from practicing law until he fully complies with all of the State Bar's requests for information.

The Lincoln County Superior Court suspended **Blair M. Pettis** until further order of the court. The court concluded that Pettis did not comply with a Consent Interim Order and Recovery Program.

Orders of Reciprocal Discipline

The Chair of the Grievance Committee issued an order of reciprocal discipline censuring **Kahiel R. Barlow** of Huntsville, Alabama. He was censured by the Board of Professional Responsibility of the Supreme Court of Tennessee in October 2016 for practicing law while he was administratively suspended.

The Chair of the Grievance Committee issued an order of reciprocal discipline suspending **Joel M. Bresler** of Lakeland, Florida for 91 days. The Supreme Court of Florida suspended Bresler for 91 days in January 2015. Bresler was a witness in the federal prosecution of his former employer and was granted immunity. Bresler drafted a false promissory note for the former employer, destroyed his own bank records at the direction of the former employer, and exaggerated to law enforcement the extent of his attorney/client relationship with the former employer.

Transfers to Disability Inactive Status

The Chair of the Grievance Committee transferred **Michael A. Schlosser** of Greensboro to disability inactive status.

Interim Suspensions

The Chair of the DHC entered an interim suspension of the law license of **Matthew A. Smith** of Raleigh. Smith was convicted in Wake County of taking indecent liberties with a child, a felony, in violation of N.C. Gen. Stat. § 14-202.1.

Completed Petitions for Reinstatement/Stay - Uncontested

There were no completed uncontested petitions for reinstatement this quarter.

Completed Petitions for Reinstatement/Stay - Contested

Tracey Cline – 12 DHC 22 & 17 BSR 8

Cline was the elected district attorney of Durham County until she was removed from office pursuant to N.C. Gen. Stat. §7A-66. In June 2015, Cline was suspended by the DHC for five years for filing pleadings containing false and outrageous statements about a judge and making false representations in court filings in an attempt to obtain confidential prison visitation records. After she served two years of the suspension, Cline was eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions. Cline did not petition for a stay. She petitioned for reinstatement but did not appear at the hearing on that petition. The DHC denied the petition.

Completed Motions to Show Cause

David A. Lloyd – 14 DHC 15

In March 2015, the DHC suspended Lloyd, of Spindale, for three years for violating trust accounting rules and for failing to report misappropriation of entrusted funds by his law practice associate. The suspension was stayed for three years. Lloyd did not comply with conditions of the stay including taking CLE, paying fees and costs, and engaging a CPA to conduct semi-annual audits of his trust account. The DHC lifted the stay and activated the three year suspension.

Jeffrey D. Smith – 15 DHC 27

In September 2015, the DHC suspended Smith, of Charlotte, for two years for violating trust accounting rules. The suspension was stayed for three years. The DHC concluded that Smith violated multiple conditions of the stay, including conditions requiring him to demonstrate proper trust accounting procedures. The DHC imposed additional conditions and extended the length of the stay.

Michael S. Williamson – 16 DHC 28

In December 2016, the DHC suspended Williamson, of Goldsboro, for three years for violating trust accounting rules. The suspension was stayed for three years. The DHC concluded that Williamson violated several conditions of the stay, including the requirements that he submit CPA audits of his trust account and pay costs and fees of the disciplinary action. The DHC announced that it will lift the stay and activate the suspension. The order has not yet been entered.

Nicholas S. Ackerman – 16 DHC 33

In January 2016, the DHC suspended Ackerman, of Greensboro, for one year. Ackerman did not communicate with his client, did not respond promptly to the Grievance Committee, and did not participate in good faith in the mandatory fee dispute resolution process. The suspension was stayed for two years. The DHC concluded that Ackerman did not comply with the conditions of the stay, including conditions relating to his practice monitor, CLE requirements, communication with the State Bar and payment of costs and administrative fees of the disciplinary action. The DHC activated Ackerman's suspension. After serving six months of the suspension, he will be eligible to apply for a stay of the balance.

TROs and Preliminary Injunctions

The OOC obtained preliminary injunctions in Wake County Superior Court prohibiting **Van. H. Johnson** of Elizabeth City, **Martin Musinguzi** of Charlotte, and **Hubert N. Rogers, III** of Lumberton from handling entrusted funds.

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 fifteen-year prison sentence. The DHC stayed the proceedings until Lamb is released. His release date is currently forecasted for October 2019. The Chair of the DHC entered an order of interim suspension of his law license.

Robert Melville, Jr. – 13 DHC 9

The Chair of the DHC entered an order of 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.

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

It is alleged that Wilson lawyer Michael Anderson 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, stayed the discipline proceeding pending resolution of the disability issue, and repeatedly ordered Anderson to undergo evaluation. Anderson has defied several DHC orders requiring him to undergo evaluation. The DHC stayed the disability case until Anderson

complies with its orders to undergo evaluation. Meanwhile, the Wake County Superior Court entered a preliminary injunction prohibiting Anderson from practicing law until the discipline and disability cases are concluded.

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 continued upon Allred's motion and has not been rescheduled.

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 by, among other devices, fabricating lease agreements to cause lenders to believe his client was purchasing houses as rental property when his client was actually purchasing them as marijuana grow houses for a large-scale drug trafficking operation. The Chair of the DHC entered an order of interim suspension of his law license. Hearing has not been scheduled because he is in prison.

Jesse W. Jones – 16 DHC 17

It is alleged that Jones yelled and cursed at opposing counsel and opposing parties and was otherwise disruptive on multiple occasions. Hearing was continued and has not been rescheduled.

Scott Shelton – 17 DHC 1

It is alleged that Shelton, of Hendersonville, violated numerous trust accounting rules. He is enjoined from handling entrusted funds. Hearing was continued and has not been rescheduled.

Brent King – 17 DHC 8

It is alleged that King, of Huntersville, committed the crime of issuing worthless checks and violated multiple trust accounting rules. Hearing was continued and has not been rescheduled.

Frederick J. Owens - 17 DHC 17

It is alleged that Owens, of Wilmington, collected an illegal fee, violated numerous trust accounting rules, and made false statements to the Grievance Committee about his participation in the Trust Account Compliance Program. Hearing is scheduled for February 27.

Joseph Forbes – 17 DHC 19

It is alleged that Forbes, of Elizabeth City, violated numerous trust accounting rules. The DHC entered an order establishing the rule violations by default. Hearing on the appropriate discipline was continued and has not been rescheduled.

Michael Parker – 17 DHC 20

It is alleged that Parker, of Mocksville, did not pay over taxes withheld from employee paychecks, did not remit to a client all funds he collected for the client, and took on new legal work while he was administratively suspended. Hearing is scheduled for February 8-9.

Julie Parker – 17 DHC 21

It is alleged that Parker, of Mocksville, did not pay over taxes withheld from employee paychecks. Hearing is scheduled for February 8-9.

Craig M. Blitzer – 17 DHC 23

Blitzer, of Reidsville, is the former elected district attorney of Rockingham County. It is alleged that Blitzer allowed his staff to take online academic tests for his wife on State time. The grievance has been stayed pending the availability of the SBI investigative report. Blitzer pled guilty in Wake County Superior Court to misdemeanor willful failure to discharge duties. The Chair of the DHC entered an order of interim suspension of his law license.

Richard B. Schultz – 17 DHC 24

It is alleged that Schultz, of Gastonia, did not respond to questions from Trust Account Compliance Counsel after a random audit, did not respond to the Grievance Committee, did not properly reconcile his trust account, and did not promptly remove earned fees from the trust account. Hearing is scheduled for June 8.

Jerry B. Clayton, Robert W. Myrick, Robert D. McClanahan, Ronald G. Coulter, and Gladys Nicole Clayton – 17 DHC 25

It is alleged that the law firm of Clayton, Myrick, McClanahan, & Coulter, PLLC in Durham did not properly reconcile its trust account. It is alleged that Ms. Clayton did not respond to questions from Trust Account Compliance Counsel after a random audit. It is alleged that Ms. Clayton, Mr. Clayton, and Mr. McClanahan did not respond to the Grievance Committee. It is alleged that Ms. Clayton modified reconciliation records provided to the State Bar to hide dates so it would appear the reconciliations were timely performed when they were actually created on the date of production to the State Bar. It is alleged that Ms. Clayton made misrepresentations to the State Bar and that the other defendants either knowingly made the same misrepresentations or made those misrepresentations with reckless disregard as to their truth or falsity. Hearing is scheduled for June 27 and 28.

Joe S. Major, III – 17 DHC 26

It is alleged that Major, of Charlotte, misappropriated fiduciary funds and obtained real property through constructive fraud. It is alleged that, in a separate matter, Major did not keep proper records, did not properly account for estate assets, and disbursed funds pursuant to a power of attorney that had been revoked by the principal's death. He is enjoined from handling entrusted funds. Hearing has not been scheduled.

Bryon M. Smith – 17 DHC 28

It is alleged that Smith, of Jacksonville, violated multiple trust accounting rules. Hearing is scheduled for March 22.

Gavin A. Brown – 17 DHC 29

It is alleged that Brown, of Waynesville, forged a notary's signature and affixed the notary's seal to a deed without authorization. Hearing is scheduled for April 12.

Mark V. Gray – 17 DHC 31

It is alleged that Gray, of Greensboro, did not file or pay federal or state income taxes from 1997 through 2005 and from 2008 through 2014. Hearing is scheduled for May 24.

Phillip S. Adkins – 17 DHC 32

It is alleged that Adkins, of Snow Camp, violated multiple trust accounting rules. He is enjoined from handling entrusted funds. Hearing has not been scheduled.

Kevin Kennedy – 17 DHC 33

It is alleged that Kennedy, of Chapel Hill, over-disbursed entrusted funds, did not reconcile his trust account, maintained inaccurate client ledgers, and commingled his personal funds with entrusted funds. Hearing has not been scheduled.

Carson W. Freeman – 17 DHC 35

It is alleged that Freeman, of Charlotte, misappropriated entrusted funds and committed other trust account violations. She is enjoined from handling entrusted funds. Hearing is scheduled for August 2-3.

Matthew A. Smith – 18 DHC 1

Smith was convicted in Wake County of taking indecent liberties with a child, a felony, in violation of N.C. Gen. Stat. § 14-202.1. The State Bar's petition for interim suspension is pending.

Paige C. Cabe – 18 DHC 2

It is alleged that Cabe, of Sanford, misappropriated entrusted funds and committed other trust account violations, did not respond to several letters of notice, neglected clients, did not communicate with clients, did not refund unearned fees, engaged in conduct prejudicial to the administration of justice including failing to appear for scheduled hearings, and engaged in dishonest conduct. She is enjoined from handling entrusted funds. Hearing has not been scheduled.

Arnold O. Jones – 18 DHC 3

Jones, of Goldsboro, was convicted of the federal felony of promising and paying gratuities to a public official in violation of 18 U.S.C. 201(c)(1)(A) for attempting to induce a law enforcement officer to unlawfully obtain the text messages of Jones's wife. Hearing has not been scheduled.

Jeffrey Warren Ellingworth – 18 DHC 4

It is alleged that Ellingworth, of Syracuse, New York (formerly of Charlotte), did not inform clients that his license was suspended, engaged in the unauthorized practice of law, neglected multiple clients, did not participate in mandatory fee dispute resolution and did not respond to the State Bar. Hearing has not been scheduled.

Tania L. Leon – 18 DHC 5

It is alleged that Leon, of Charlotte, forged her husband's endorsement on a check to take funds to which she was not entitled from their joint investment account and filed a complaint against her husband for money owed in which she made false statements and asserted frivolous positions. Hearing has not been scheduled.

Robert R. Schoch – 18 DHC 7

It is alleged that Schoch, of High Point, made misrepresentations to the court, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, engaged in conduct intended to disrupt a tribunal, used means that had no substantial purpose other than to embarrass and burden third persons, and engaged in conduct prejudicial to the administration of justice. Hearing has not been scheduled.

Jeffrey Dalrymple – 18 DHC 8

It is alleged that Dalrymple, of Matthews, did not reconcile his trust account, maintained inaccurate client ledgers, and commingled his personal funds with entrusted funds. Hearing has not been scheduled.

Thomas S. Hicks – 18 DHC 9

It is alleged that Hicks, of Wilmington, abandoned several clients and did not return unearned fees when he was suspended by the DHC and that he did not respond to the State Bar. Hearing has not been scheduled.

Cindy Huntsberry – 18 DHC 10

It is alleged that Huntsberry, of Smithfield, violated numerous trust accounting rules. Hearing has not been scheduled.

James Goard – 18 DHC 11

It is alleged that Goard, of Charlotte, was convicted of DWI, advised and assisted an individual in drafting an affidavit while he was suspended from the practice of law, made misrepresentations to a client and during a disciplinary proceeding, and did not respond to the Grievance Committee. Hearing has not been scheduled.

Lisa Page – 18 DHC 12

It is alleged that Page, of Charlotte, violated numerous trust accounting rules and held entrusted funds in an earnest money account that she did not identify or manage as a trust account. Hearing had not been scheduled.

Jeffrey S. Miller – 18 DHC 13

It is alleged that Miller, of Jacksonville, agreed that his client would not file a bar grievance against his former attorney if the attorney would pay a substantial sum of money. Hearing has not been scheduled.

Pending Petitions for Reinstatement/Stay - Uncontested

Shaun L. Hayes – 16 DHC 38

In November 2016, the DHC concluded that Hayes, of Asheboro, engaged in dishonest conduct by submitting an agreement bearing a false, handwritten signature in support of his response to a fee dispute petition and denying to the Grievance Committee that he handwrote the signature on the agreement. He was suspended for two years. After serving one year, Hayes was eligible to apply for a stay of the balance upon demonstrating compliance with certain conditions.

Pending Petitions for Reinstatement/Stay - Contested

R. Kelly Calloway, Jr. – 16 DHC 3

In October 2016, the DHC suspended Calloway, formerly of Connelly Springs, for four years for failing in multiple years to file federal and state tax returns and to pay federal and state taxes. After serving one year of the suspension, Calloway was eligible to petition for a stay of the balance. Hearing on his petition for a stay is scheduled for January 19.

Theophilus O. Stokes, III – 10 DHC 37 & 17 BCR 1

In February 2012, Stokes was disbarred by the DHC upon his affidavit of surrender. Stokes was convicted of two counts of misdemeanor receiving stolen goods for his participation in a fraudulent check scheme. Hearing on his petition for reinstatement is scheduled for January 29.

Joan Elizabeth Spradlin – 17 RD 1

In March 2008, Spradlin was transferred to disability inactive status by the Chair of the Grievance Committee. Spradlin's petition for transfer to active status is scheduled for hearing February 20.

Tracey Cline – 12 DHC 22 & 17 BSR 8

Cline was the elected district attorney of Durham County until she was removed from office pursuant to N.C. Gen. Stat. §7A-66. In June 2015, Cline was suspended by the DHC for five years for filing pleadings containing false and outrageous statements about a judge and making false representations in court filings in an attempt to obtain confidential prison visitation records. After she served two years of the suspension, Cline was eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions. Cline did not petition for a stay. She filed a petition for reinstatement but did not appear at the hearing on that petition. The DHC denied the petition on December 20, 2017. Also on December 20, 2017, Cline filed a second petition for a stay of the suspension. Hearing on the second petition has not been scheduled.

Pending Motions to Show Cause

There are no motions to show cause pending before the DHC.

Pending Surrenders to the Council

No lawyers are expected to surrender their law licenses at the January meeting.

APPEALS IN DISCIPLINE CASES

Completed Appeals

NCSB v. Jennifer Foster - 14 DHC 7

In September 2016, the DHC suspended Foster, of Asheville, for two years. The suspension was stayed upon her compliance with numerous conditions. The DHC concluded that Foster engaged in conduct degrading to a tribunal and prejudicial to the administration of justice by using profanity when addressing a magistrate. On December 19, 2017, the Court of Appeals affirmed in a published opinion. The OOC represented the State Bar.

NCSB v. Christopher Livingston - 15 DHC 15

In July 2016, the DHC suspended Livingston of Bladen County for five years. After he serves two years of the suspension, he will be eligible to petition for a stay of the balance upon demonstrating compliance with numerous conditions. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. On December 19, 2017, the Court of Appeals affirmed in a published opinion. The OOC represented the State Bar.

Pending Appeals

NCSB v. Dawn Ely - 16 DHC 1

In August 2016, the DHC suspended Dawn Ely for five years because she offered to provide legal services while her license was administratively suspended. After she serves two years of the suspension, she will be eligible to petition for a stay of the balance upon demonstrating compliance with numerous conditions. Oral argument was held at the UNC School of Law on October 17, 2017. The OOC represents the State Bar.

Scott S. Dorman – 16 DHC 26

In September 2017, the DHC disbarred Dorman of Las Vegas, Nevada. The DHC concluded that Dorman committed a criminal act, embezzlement, that reflects adversely on his honesty, trustworthiness or fitness, engaged in conduct involving dishonesty, deceit, or misrepresentation, did not deposit entrusted funds into a trust account, engaged in conduct prejudicial to the administration of justice, neglected and did not communicate with clients, did not respond to the Grievance Committee and gave legal advice to an unrepresented opposing party. He gave notice of appeal on October 16, 2017.

Robert N. Weckworth, Jr. – 16 DHC 22

In October 2017, the DHC censured Greensboro attorney Robert Weckworth. The DHC concluded that he communicated with a represented adverse party and had improper *ex parte* communications with a judge. Weckworth gave notice of appeal on November 17, 2017.

Trust Accounting Compliance Program

Forty-two lawyers have successfully completed the TAC Program since its inception. Peter currently supervises twelve participants. He continues to review random audits to evaluate potential candidates for the program.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 20 new files this quarter. The committee will address 34 files at its January meeting.

Staff counsel reviewed and accepted the annual renewals for seventy-two prepaid legal services plans this quarter. Four plans did not submit renewals. If they do not submit renewals by January 31, 2018, the State Bar will begin proceedings to revoke their registrations. Five proposed prepaid legal services plans submitted applications for registration this quarter. Three of those applications were denied registration because the proposed plan procedures and application materials contained deficiencies. The resubmitted application of “Complete Legal Plan” and the initial application of the “North Carolina Police Benevolent Legal Benefit Plan, Inc.” are under review. Of ten plan amendments submitted this quarter, seven were accepted and three are under review.

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.

Pending, Recently Completed and Contemplated Authorized Practice Litigation

Capital Associated Industries, Inc. v. Josh Stein 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 wishes to hire lawyers to provide legal advice and legal services to its members. CAI sought a declaration that N.C. Gen. Stat. §§ 84-4 and 84-5 violate the United States and North Carolina constitutions as applied to it and sought an injunction prohibiting the original defendants from enforcing the statutes against it. CAI did not seek an award of damages but did seek an award of attorney fees, “disbursements,” and costs. The court allowed the State Bar to intervene. The court denied the original defendants’ motions to dismiss and denied CAI’s motion for preliminary injunction. The case was scheduled for trial on October 2, 2017. On September 19, the court granted the State Bar’s motion for summary judgment on all claims and dismissed the action. The court concluded that CAI has no constitutional or other right to engage in the practice of law or provide legal services to its members and that the North Carolina statutes prohibiting the unauthorized practice of law are constitutional, both facially and as applied. The court also concluded that the statutes do not violate the anti-monopoly clause of the North Carolina Constitution. CAI appealed the decision to the Fourth Circuit. CAI filed its appellant’s brief on December 11, 2017. The State Bar’s brief is due February 7. Van Laningham Duncan represents the State Bar.

The Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against **Michael Asen and the Zimmerman Group**. Asen is a New York lawyer who attempts to collect civil penalties from persons accused of shoplifting in North Carolina. The Zimmerman Group offers Asen’s services to retailers. The OOC has prepared the complaint and is negotiating a consent injunction to file simultaneously with the complaint.

The Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against California-based **Freedom Debt Relief**. Freedom Debt Relief provides debt adjusting services and offers to provide attorneys to assist its customers when they are sued by creditors. On November 8, 2017, the Consumer Financial Protection Bureau filed a lawsuit in federal court in California seeking to enjoin the debt adjusting activities. The OOC is monitoring that lawsuit to determine if it will affect the State Bar's action.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

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 represented the State Bar.

Valerie Arroyo v. North Carolina State Bar (Office of Administrative Hearings). The Grievance Committee dismissed a grievance filed by Arroyo. Arroyo filed a petition for contested case hearing in the OAH alleging that the State Bar deprived her of due process by failing to render a decision favorable to her position in the grievance. On December 29, 2017, Judge Morrison entered a final order and dismissal. Arroyo's time to seek judicial review has not expired. The Attorney General represents the State Bar.

Kareem Abdullah Kirk-Bey v. North Carolina State Bar (Office of Administrative Hearings). The Grievance Committee dismissed a grievance filed by Kirk-Bey. Kirk-Bey filed a petition for a contested case hearing in the OAH alleging that the Grievance Committee did not take the action she desired. She did not comply with the first and second orders for prehearing statement. The State Bar will move to dismiss the action. The Attorney General represents the State Bar.

Christopher Livingston v. North Carolina State Bar and 13th Judicial District Bar (US District Court for the Eastern District of NC). Livingston alleges that he was required to pay mandatory dues to the 13th Judicial District Bar, that such dues were unnecessary, and that the dues were used for purposes with which he disagreed. He concludes that his allegations establish claims under 42 U.S.C. §§ 1983 and 1988 for injunctive relief and actual and punitive damages for violations of the Fifth Amendment Takings clause and the Fourteenth Amendment Due Process and Equal Protection clauses and for violations of the Law-of-the-Land and Equal Protection clauses of the North Carolina constitution. The complaint has not been served on the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 31 new claims and two claims for reconsideration on the agenda for the Board's January 25 meeting. Three lawsuits are pending in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the CSF.

Disbursement Cases

This quarter, the OOC filed three motions in Superior Court for permission to disburse funds from the trust accounts of suspended/disbarred lawyers. The OOC attended four hearings on motions to disburse or escheat, obtained six orders directing the disbursement of \$82,234.02, and closed five files that did not require further court action.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **Farris A. Duncan** of Goldsboro and **Randolph Hill** of Raleigh. Trustees were also appointed to wind down the practices of **Powell W. Glidewell** of Newland who became unavailable to clients and **Charles R. Gurley** of Goldsboro, whose license was suspended by the courts.

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

Appeals in Other Litigation in the State and Federal Courts

Completed Appeals

No appeals were completed this quarter.

Pending Appeals

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 to refer the grievance to the courts for investigation and disciplinary action and an award of costs. The court dismissed the complaint. Boyce appealed to the North Carolina Court of Appeals. Oral argument was held February 7, 2017. We await a decision. The State Bar was represented by Parker Poe Adams and Bernstein in the trial court but is represented by the OOC on appeal.

Legislative Liaison

The State Bar continues to monitor and engage with the North Carolina General Assembly through its legislative liaison. The 2017 long session adjourned in July but the legislature has since met numerous times to address veto overrides and judicial redistricting. The State Bar monitored many bills during the long session and formally opposed legislation that would have reduced State Bar dues to \$50 and legislation that would have restructured how interest from IOLTA accounts is distributed. Ultimately, neither bill survived the legislative crossover deadline. The State Bar supported the passage of a bill to increase penalties on debt adjusters that unanimously passed the House and is still pending in the Senate. In September, the State Bar's legislative liaison addressed the House Select Committee on Judicial Redistricting, advocating for a more deliberate redistricting process that is focused on the effective administration of justice. A joint select committee on judicial redistricting and reform is meeting in January. The legislative short session begins in May. In addition to monitoring legislation, the Bar continues

to increase its visibility at the legislature through attendance at committee meetings and the Bar's annual legislative reception.

Personnel

Doug Miller joined the Investigations Department on January 8. Doug recently retired as a criminal investigator for the Internal Revenue Service.

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.

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

Peter continues to give trust account presentations across the state and nationally to lawyers and administrative professionals. He is a frequent guest lecturer in our law schools and conducts webinars on trust accounting. Peter writes a quarterly trust accounting article in the *Journal* and uses the State Bar Twitter account to notify members of trust account scams that come to the State Bar's attention.

Carmen continues to serve as the OOC's liaison to the judiciary. As Programs Chair of the WCBA Professionalism Committee, Carmen presented the Committee's annual Ethics Committee Year-in-Review program in January. She also presented an ethics CLE at the Federation of State Medical Board's Board Attorney Workshop. Carmen serves as a mentor to a 3L student through Campbell Law's Connections Mentoring Program and is Associate Adjunct Professor of professional responsibility at UNC School of Law. In November, she performed in the WCBA's annual Bar Awards, a musical/comedy show to benefit Legal Aid.

Jennifer volunteers as a judge for the Capital Area Teen Court diversion program. She judges mock trial competitions; the next is a session of a regional tournament for the American Mock Trial Association hosted by Carolina Mock Trial at UNC Chapel Hill on February 24.

Brian continues to serve on the Board of Advisors for the First Amendment Law Review at UNC School of Law and as 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 November, Brian presented a CLE at the Advocates for Justice Program for New Admittees. Brian also spoke at a forensic entomology class at NC State on the topic of scientific expert testimony. In January, Brian spoke at Mel Wright's Professional Responsibility class at Campbell Law.

Over the past 18 months, Brian and Heather Pattle oversaw the selection, design, installation, and implementation of the OOC's new case management system, which went live in November. Brian and Heather field questions about the program from members of the OOC and train employees on using the program. They will also work on adding new features during 2018.

Katherine continues to serve on the NCBA Professionalism Committee.