

**REPORT OF THE OFFICE OF COUNSEL  
TO THE N.C. STATE BAR COUNCIL  
JANUARY 19, 2024**

**ATTORNEY CLIENT ASSISTANCE PROGRAM**

During the fourth quarter of 2023, ACAP staff responded to 2,248 phone calls from members of the public and placed 201 calls to lawyers. Staff also responded to 972 emails from members of the public and attorneys and responded to 596 letters from inmates. In addition, there were 16 translations completed of fee dispute petitions submitted in Spanish. Intake logged 4,394 entries this quarter.

The State Bar opened 145 requests for fee dispute resolution during the first quarter, all of which were assigned to State Bar facilitators.

**GRIEVANCES**

In 2018, 1,247 grievance files were opened. In 2019, 1,254 grievance files were opened. In 2020, 927 grievance files were opened. In 2021, 986 grievance files were opened. In 2022, 1,404 grievance files were opened. In 2023, 1,504 grievance files were opened. As of January 8, 33 grievance files have been opened in 2024.

As of January 8, 2,422 grievances were pending. One hundred ninety-five grievances were stayed. Ten pending files were in judicial district grievance committees or had been returned by district grievance committees within the past 30 days. The OOC had made its recommendation in 115 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 2,102 files in which no recommendation has yet been made, 350 were more than six months old. In the fourth quarter of 2023, 428 files were dismissed by the Grievance chair or by the Grievance chair and a vice chair.

There were no inquiries about lawyer advertising in the fourth quarter of 2023.

**DISCIPLINE AND DISABILITY CASES**

**Completed Cases Before the Disciplinary Hearing Commission**

The OOC completed 2 discipline and disability cases involving 2 lawyers in the DHC this quarter.

**Frank Chut, Jr. – 21 DHC 6**

Chut, an Assistant United States Attorney in Greensboro, was before the DHC because he rejected proposed discipline from the Grievance Committee in favor of a hearing on the allegations. After a Grievance Review Panel reviewed the underlying grievance, Chut accepted the Grievance Committee's disposition of the matter. As a result, the State Bar filed a Notice of Voluntary Dismissal of the DHC case.

**Travis Simpson – 23 DHC 10**

Simpson, of Winston Salem, neglected and did not communicate with his client, did not respond to the Grievance Committee, and abandoned confidential client materials at his former law office

when he was evicted. The DHC announced its decision to disbar Simpson following an uncontested Phase II hearing in December. The Order has not been entered yet.

### **Completed Grievance Noncompliance Actions before the DHC**

No grievance noncompliance actions were completed this quarter.

### **Completed Grievance Review Panels**

A Grievance Review Panel met at the October meeting to consider one petition.

### **Completed Surrenders to the Council**

No lawyers surrendered to the Council at its October meeting.

### **Completed Discipline and Disability Proceedings in the Courts**

No discipline or disability proceedings were completed in the courts this quarter.

### **Orders of Reciprocal Discipline**

No orders of reciprocal discipline were entered this quarter.

### **Transfers to Disability Inactive Status**

No lawyers were transferred to disability inactive status this quarter.

### **Interim Suspensions**

#### **Kevin L. Wingate – 23 DHC 16**

The DHC entered an order placing Wingate, of Raleigh, on interim suspension based upon his convictions of criminal offenses showing professional unfitness: to wit, one count of First Degree Statutory Sexual Offense, a Class B1 felony, and four counts of Indecent Liberties with a Child, a Class F felony. Wingate did not respond to the OOC's petition seeking interim suspension of his license to practice law or otherwise contest the entry of the order by the DHC.

### **Completed Petitions for Reinstatement/Stay - Uncontested**

#### **Kelly R. Routh – 21 DHC 24**

In 2022 Routh, of Charlotte, was suspended for five years after diverting to herself a cash payment of a fee to which her law firm employer was entitled. Routh was eligible to apply for a stay after serving one-year of active suspension and complying with various conditions. The OOC consented to a DHC order staying Routh's suspension.

#### **Lloyd T. Kelso – 21 DHC 21**

Kelso, of Gastonia, was suspended by the DHC for one year beginning December 2022 for trust account mismanagement and attempt to have sex with a client. The OOC consented to his reinstatement, which will be subject to certain conditions for one year after he resumes practicing.

### **Completed Petitions for Reinstatement/Stay - Contested**

No contested petition for reinstatement or stay were completed this quarter.

### **Completed Motions to Show Cause**

No motions to show cause were completed this quarter.

### **TROs and Preliminary Injunctions**

The Wake County Superior Court entered an order of preliminary injunction prohibiting **Julie Parker** of Emerald Isle from handling entrusted funds.

### **PENDING DISCIPLINE AND DISABILITY PROCEEDINGS IN THE COURTS**

**In re: Inhaber - 23CR464843 (Rowan County District Court)** – Attorney with a history of failing to appear on behalf of district clients failed to appear in court, was ordered by the court to appear on a different date to explain his absence, and then failed to appear as ordered. The OOC was asked to assist the court in addressing Inhaber’s conduct. The case is calendared for January 26.

### **PENDING DISCIPLINE AND DISABILITY CASES**

#### **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 fraud and wire fraud. The disciplinary action will be stayed until Melville is returned to active status.

#### **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 Grievance Committee; 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 disciplinary proceeding pending resolution of the disability issue, and repeatedly ordered Anderson to undergo evaluation. Anderson defied several DHC orders requiring him to undergo evaluation. The DHC stayed the disability case until Anderson complies with those orders. In May 2016, the Wake County Superior Court entered a preliminary injunction prohibiting Anderson from practicing law until the discipline and disability cases are concluded.

#### **Wendelyn R. Harris – 18 DHC 14 & 18 DHC 14D**

It is alleged that Harris, of Virginia and formerly of Raleigh, submitted a purported order to the Department of Motor Vehicles on which she forged a judge’s signature and blamed her nonlawyer assistant for these actions. Harris’s assistant was convicted of forgery at a trial in which it is alleged that Harris testified falsely. Harris was automatically transferred to disability inactive

status when she raised the issue of disability. After a hearing, Harris was continued on disability inactive status. The disciplinary action will be stayed until Harris is returned to active status.

**Michael H. Griffin – 18 DHC 20**

It is alleged that Griffin, formerly of Shelby and now of Florida, misappropriated entrusted funds. He is enjoined from handling entrusted funds. The discipline case is stayed because the panel ordered a disability proceeding pursuant to 27 N.C. Admin. Code 1B § .0122(c)(2). Griffin was transferred to disability inactive status by consent. The disciplinary action will be stayed until Griffin is returned to active status.

**Penny K. Bell – 21 DHC 17**

It is alleged that Bell, of Clinton, made false representations to the Grievance Committee and gave false testimony during remand of a *Batson* claim regarding what she described as the assistant district attorney's history and practice in exercise of peremptory challenges. In July 2023, the State Bar filed a second amended complaint adding a second claim for relief. The second claim for relief alleges that Bell provided false and misleading information to the court when she failed to inform the court in an *ex parte* motion for emergency custody that her client was subject to an active arrest warrant for felony interference with child custody regarding the same child at issue in the *ex parte* emergency custody motion. Hearing is scheduled for April 22-26.

**Paris Peppers – 22 DHC 2**

It is alleged that Peppers, of Henderson, while representing two of her cousins, made false promises to defraud them out of property inherited from their grandmother, did not comply with discovery requests and orders in a civil case her cousins brought against her, and made false representations to the Grievance Committee. Peppers was automatically transferred to disability inactive status upon filing a notice of disability in the DHC proceeding on 15 March 2023. The disciplinary proceeding is stayed pending a determination of whether Peppers is disabled. She is enjoined from handling entrusted funds. The DHC entered a consent order continuing Peppers' disability inactive status after Peppers underwent a scheduled medical evaluation. The disciplinary case against Peppers is stayed while she is on disability inactive status.

**Brian R. Harwell – 22 DHC 3**

Harwell, of Mooresville, pled guilty in Iredell County Superior Court to felony possession of methamphetamine, misdemeanor harboring a fugitive, and misdemeanor resisting a public officer. It is alleged that Harwell also made one or more false statements to police officers regarding a client's whereabouts when the officers came to Harwell's home to serve a warrant for the client's arrest. The Chair of the DHC entered an order of interim suspension of Harwell's law license. The disciplinary complaint has not yet been filed.

**Allan R. Grimsley—22 DHC 6**

It is alleged that Grimsley, of Nags Head, improperly deposited entrusted funds into his operating account, misappropriated client funds, did not conduct required trust account reconciliations and reviews, and did not timely file and pay federal individual income taxes for several years and employment taxes for one quarter. He is enjoined from handling entrusted funds. Hearing was continued and has not been rescheduled.

**Richard T. Dail – 22 DHC 7**

It is alleged that Dail, of Thomasville, misappropriated, did not properly maintain, and improperly disbursed entrusted funds; made a false statement to a client regarding entrusted funds; and did not promptly complete disbursements, deposit entrusted funds into his trust account, conduct required trust account reconciliations and reviews, and maintain required trust account records. He is enjoined from handling entrusted funds. Upon Dail's assertion that he is disabled, he was immediately transferred to disability inactive status and the disciplinary action was stayed. After Dail underwent a medical evaluation, the DHC entered a consent order concluding that Dail is disabled and will remain in disability inactive status. The disciplinary action will be stayed until Dail is returned to active status.

**Thomas C. Goolsby—22 DHC 14**

It is alleged that Goolsby, of Wilmington, made false and misleading statements during an investigation by the Notary Enforcement Division of the Secretary of State's Office. Hearing is scheduled for March 12-13.

**Jonathan Charleston – 22 DHC 16**

It is alleged that Charleston, of Fayetteville, engaged in improper *ex parte* communications with a superior court judge and did not disclose material information to the court during those communications. The DHC case is stayed.

**Martin Musinguzi – 22 DHC 21**

It is alleged that Musinguzi, of New York, embezzled entrusted funds and did not respond to the Grievance Committee. He is enjoined from handling entrusted funds. Hearing has not been scheduled.

**Mark T. Cummings – 22 DHC 25**

It is alleged that Cummings, of Greensboro, misrepresented his residency in an election, instructed a courtroom clerk to issue a note containing false information, failed to issue required Forms 1099 and made related false statements, and misrepresented the existence of evidence to the presiding judge during a trial. Hearing was held November 14-17, 2023, but did not finish. Hearing will resume January 22-26.

**Harry C. Marsh – 23 DHC 4**

It is alleged that Marsh, of Matthews, engaged in misconduct in many real estate matters, including: Recording a document that falsely appeared to create an encumbrance on title, knowing his client would use that document to extract payment from the owner to release the purported encumbrance; misappropriating entrusted funds provided by an investor for the benefit of the buyer/borrower and without the investor's knowledge or consent; intentionally failing to record a deed of trust and then closing a subsequent sale of the same property without paying off the debt that should have been secured by the unrecorded deed of trust; preparing multiple HUD-1 Settlement Statements providing different information to different recipients to induce the Bankruptcy Court to approve a debtor's sale of property by misrepresenting the nature of the transaction; not complying with the Bankruptcy Court's directive regarding disbursement of closing funds; making misrepresentations to the Grievance Committee; not timely responding to the Grievance Committee; over-disbursing funds from the trust account; collecting attorney fees and costs by improper means that failed to identify the client whose fees and costs were being collected; not maintaining individual client ledgers for each deposit of funds into the trust account;

and engaging in a conflict of interest. He is enjoined from handling entrusted funds. Hearing is scheduled for May 7-9.

**Neil Scarborough – 23 DHC 5**

It is alleged that Scarborough, of Nags Head, neglected multiple clients; charged a clearly excessive fee; made statements to embarrass a third party; engaged in conduct prejudicial to the administration of justice; did not protect a client upon termination of the attorney-client relationship; engaged in the practice of law while his license was administratively suspended; violated multiple trust account record-keeping rules; and did not timely respond to the Grievance Committee. Hearing has not been scheduled.

**Anita B. Hunt – 23 DHC 8**

It is alleged that Hunt, of Durham, did not properly maintain and disburse entrusted funds and misappropriated entrusted funds. She is enjoined from handling entrusted funds. Hearing is scheduled for February 22-23.

**Nicolle T. Phair – 23 DHC 11**

It is alleged that Phair, of Sanford, engaged in a fraud upon the court during her representation of a criminal defendant by having a stranger pretend to be her client when her client's case was called for trial. It is also alleged that Phair engaged in contempt of court, did not act with diligence, and prejudiced the administration of justice when she failed to return to an afternoon session of court as directly ordered by the court, resulting in unnecessary continuances for clients who remained in jail. Hearing will be scheduled for three days in June 2024.

**Earl H. Strickland – 23 DHC 12**

It is alleged that Strickland, of Lumberton, did not conduct required trust account reviews and reconciliations, improperly disbursed entrusted funds, did not promptly disburse entrusted funds, did not escheat abandoned funds, and did not send required annual accountings to clients. Partial judgment on the pleadings has been entered, leaving only the issue of what discipline, if any, to impose. Hearing is scheduled for March 28.

**Ronnie P. King – 23 DHC 13**

It is alleged that King, of Roxboro, did not timely file and pay his firm's employee withholding taxes for several years. Hearing has not been scheduled.

**Meredith Ezzell - 23 DHC 14**

It is alleged that Ezzell, of Wilmington, neglected multiple clients, did not timely file and pay federal and state income taxes, did not timely pay employment taxes, and did not respond to the Grievance Committee. Ezzell is currently serving a suspension entered in 18DHC42. Hearing is scheduled for March 20-21.

**Kevin L. Wingate – 23 DHC 15**

Wingate, of Raleigh, was convicted by a jury of one count of first degree statutory sex offense, a class B1 felony, and four counts of indecent liberties with a child, a class F felony. The DHC placed Wingate on an interim suspension. Hearing has not been scheduled.

**Derek Fletcher – 23 DHC 16**

It is alleged that Fletcher, of Charlotte, neglected and failed to communicate with a client, charged a clearly excessive fee, did not refund an unearned fee, and did not respond to the Grievance Committee. Hearing has not been scheduled.

**Richard E. Batts – 24 DHC 1**

It is alleged that Batts, of Rocky Mount, failed to conduct required trust account reconciliations and reviews, failed to maintain accurate client ledgers, failed to deposit entrusted funds into his trust account, failed to promptly transfer entrusted funds in a PayPal account to the trust account, failed to make transfers from the PayPal account to the trust account in a manner that identified the clients whose funds were being deposited into the trust account and in what amounts, and improperly disbursed funds from the trust account. Hearing has not been scheduled.

**Randall Place – 24 DHC 2**

It is alleged that Place, of Bonita Springs, Florida, engaged in cyberstalking his former wife in violation of Florida law and violating the terms of his probation. It is also alleged that Place violated an injunction by contacting his former wife. Hearing has not been scheduled.

**Pending Grievance Noncompliance Actions before the DHC**

There are no pending grievance noncompliance actions.

**Pending Grievance Review Panels**

A Grievance Review Panel will consider one petition for review on January 19.

**Pending Petitions for Reinstatement/Stay - Uncontested**

**Arnold Jones – 18 DHC 3**

Jones, of Goldsboro, was suspended by the DHC for five years in late 2018 based on his federal conviction for promising and paying a gratuity to a public official. The OOC has not yet determined whether there are grounds to contest his petition for reinstatement, which was filed January 8, 2024.

**Pending Petitions for Reinstatement/Stay - Contested**

**In re Theodore G. Hale – 20BCR1**

Hale, of Wilmington, was disbarred by the DHC in 2004. The DHC found that he misappropriated money from his former law partner, charged and collected money from the parents of a criminal defendant he was appointed to represent without telling them that he was obligated to represent their son at state expense, and collected and converted to his own use the \$15,287.09 proceeds of an annuity contract. In February 2019, the DHC recommended denial of Hale’s first petition for reinstatement and Hale did not seek Council review. Hearing on his second petition was continued and has not been rescheduled.

**Jeffrey Smith – 15 DHC 27R2, 18 DHC 26R2**

In June of 2018, the DHC suspended Smith, of Charlotte, for two years. The DHC concluded that Smith violated multiple trust accounting rules. The order of discipline provided that, after he

served one year of the suspension, Smith could petition for a stay of the balance upon demonstrating compliance with enumerated conditions. He did not petition for a stay. His petition for reinstatement from suspension is pending. Hearing was continued and has not been rescheduled.

### **Pending Motions to Show Cause**

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

### **Pending Surrenders to the Council**

**Jonathan W. Washburn**, of Wilmington, **Julia Boseman (née Olson-Boseman)**, of Wilmington, and **Nathanael Pendley** of Clemmons submitted affidavits of surrender of their law licenses for consideration by the Council at the January 2024 meeting.

## **APPEALS IN DISCIPLINE & DISABILITY CASES**

### **Completed Appeals**

#### **NC State Bar v. Kenneth Irek – 92 DHC 17**

Irek, of North Hills, California, was disbarred by the DHC in 1993 for misappropriating entrusted funds. In January, Irek filed a Rule 60 motion seeking to vacate the 1993 disbarment order on grounds that the State Bar allegedly did not exercise due diligence twenty-nine years ago before serving him by publication and allegedly did not maintain complete records of the proceeding. The DHC denied his motion. Irek filed a Rule 59 motion seeking relief from that order. After the State Bar filed its brief, Irek withdrew the Rule 59 motion and appealed denial of the Rule 60 motion to the North Carolina Court of Appeals. The Court of Appeals affirmed. Irek filed a petition for discretionary review to the North Carolina Supreme Court, and the Court denied Irek’s petition on December 13, 2023.

#### **NC State Bar v. Lonnie P. Merritt – 21 DHC 5**

The DHC concluded that Merritt, of Wilmington, had a sexual relationship with a domestic law client and suspended his license for one year. He appealed. The Court of Appeals affirmed. Merritt filed a petition for discretionary review and notice of appeal to the North Carolina Supreme Court. The Court denied Merritt’s petition and allowed the State Bar’s motion to dismiss the appeal on December 13, 2023.

### **Pending Appeals**

#### **Michael DeMayo – 22 DHC 1**

The DHC concluded that DeMayo, of Charlotte, engaged in dishonesty, fraud, deceit, or misrepresentation in his statements to a departing associate about the content of DeMayo’s call with a client who chose to be represented by the departing associate. The DHC suspended his law license for one year and stayed the suspension for two years upon his compliance with enumerated conditions. DeMayo appealed. The State Bar filed its brief on July 3. Oral argument occurred on October 25, 2023 at North Carolina Central Law School. An opinion has not yet been issued.

### **Mark A. Key – 21 DHC 23**

The DHC concluded that Key, of Lillington, chronically failed to comply with the law regarding personal and business taxes, engaged in felony mortgage fraud, disclosed client confidences, mismanaged his trust account, was disruptive during a Superior Court trial, made misrepresentations to an employee and knowingly underreported her wages to the IRS, and made misrepresentations to the Grievance Committee. The DHC suspended Key, who has a 20-year history of professional discipline, for five years with a possible stay after three years upon compliance with various conditions. Both Key and the State Bar appealed. The parties have filed initial briefs, and the State Bar’s response to Key’s brief is due February 19, 2024.

### **Gregory Bartko – 23 BCR 1**

The DHC dismissed Bartko’s petition for reinstatement from disbarment for failure to comply with 27 N.C. Admin. Code 1B .0129(a). The hearing panel denied his Rule 59 and 60 motions. Bartko appealed to the North Carolina Court of Appeals. Bartko filed the appellant brief and the State Bar’s appellee brief is due January 26, 2024.

### **David Shawn Clark – 22 BCR 12**

Clark, of Hickory, petitioned for reinstatement from disbarment. The DHC recommended denial of the petition, finding that Clark refused to fully acknowledge his wrongdoing in having sex with a client and in subsequent attempts to malign the client by, inter alia, suborning perjury, threatening witnesses, and filing a meritless lawsuit against the client. Clark appealed to the State Bar Council, which denied Clark’s petition for reinstatement. Clark appealed the Council’s denial to the Court of Appeals. The parties are in the process of settling the record.

## **TRUST ACCOUNT COMPLIANCE PROGRAM**

One hundred thirty-four lawyers have completed the TAC Program since its inception. Two lawyers accepted offers to participate in the TAC Program after the October 2023 quarterly meeting. Leanor currently supervises twenty-seven participants. Leanor also monitors two DHC defendants whose stayed suspensions include trust account compliance conditions and oversees compliance with random audit corrections.

## **AUTHORIZED PRACTICE**

The Authorized Practice Committee opened 17 new files this quarter. There are 8 files on the committee’s January agenda.

## **Pending, Recently Completed, and Contemplated Authorized Practice Litigation**

### **Valerie Arroyo v. North Carolina State Bar, et al. (Cabarrus County Superior Court)**

Arroyo, who is not licensed to practice law in North Carolina, has filed multiple tort claim actions and lawsuits on behalf of others. In 2022, the State Bar obtained a permanent injunction against Arroyo, prohibiting her from engaging in the unauthorized practice of law. Arroyo appealed but did not perfect the appeal. Subsequently, she sued the State Bar and others in Cabarrus County Superior Court. In her claims against the State Bar, Arroyo alleges that it failed to give her due process and equal protection by not disciplining the lawyers she complains about and by getting the injunction against her UPL. The Attorney General represents the State Bar and has moved to

dismiss Arroyo's claims against it. A hearing on the State Bar's motion to dismiss is anticipated in February 2024.

### **Prepaid Legal Services Plan Registration**

During the fourth quarter, the State Bar received three initial registration statements for proposed prepaid legal services plans and received two amendments to existing plans. The State Bar also received annual registration renewal forms and annual registration renewal fees from almost all registered plans by December 1, 2023. The Authorized Practice Committee will consider instructing the Secretary to issue notices to show cause to the registered plans not in compliance with this requirement at the January meeting.

## **OTHER LITIGATION IN THE STATE AND FEDERAL COURTS**

### **Pending Litigation**

**Richard Polidi v. Colon Willoughby et al (Wake County Superior Court).** Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. He filed this action in July 2017 against Colon Willoughby in his official and individual capacities, against Katherine Jean in her official and individual capacities, and against many others. It is unclear whether Polidi sued Colon Willoughby in his official capacity as the former elected district attorney of Wake County or in his official capacity as a now former State Bar councilor. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served Willoughby or Jean. If he does, the Office of Counsel will represent them.

**Richard Polidi v. Carmen Bannon (Wake County Superior Court).** Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. In July 2017, he filed this action against Carmen Bannon, State Bar deputy counsel, in her official and individual capacities. Polidi makes vague, generalized allegations relating to his decision to surrender his law license and consent to be disbarred. He has never served Bannon. If he does, the Office of Counsel will represent her.

**Christopher Livingston v. N.C. State Bar, et al (Wake County Superior Court).** Livingston is a licensee. In July 2016, the DHC suspended him for five years. The DHC order was affirmed on appeal. In January 2018, Livingston sued the State Bar and the district bar in federal court alleging that the district bar improperly used mandatory district bar dues. Livingston added John Silverstein (Chair of the Grievance Committee that found probable cause) and Deputy Counsel Leanor Hodge (who prosecuted Livingston) as defendants, alleging that they selectively prosecuted him. In February 2019, the federal court granted the State Bar defendants' motion to dismiss for lack of subject matter jurisdiction. In March 2019, Livingston filed this action, a nearly identical complaint, in Wake County Superior Court. Livingston never served any defendant. In June 2019, he obtained alias and pluries summonses but never served them. The State Bar first learned of the Wake County lawsuit in September 2019, when the trial court administrator directed the parties to prepare a case management order. The State Bar notified the trial court administrator that, because no defendant has been served, the case should be discontinued. The State Bar has heard nothing further from the trial court administrator and the case has not been scheduled for hearing. If the State Bar defendants are ever served, the Office of Counsel will represent them.

**Eddie Meeks v. Robert Weston and Robert Powell (U.S. District Court WDNC).** Meeks, respondent in a pending grievance, filed this lawsuit on February 6, 2023, against Deputy Counsel Weston and State Bar Investigator Powell. Meeks alleges that Weston and Powell violated 42 U.S.C. § 1983 and committed abuse of process in their investigation of allegations of Meeks' professional misconduct by serving upon him and upon his wife subpoenas issued by the Chair of the Grievance Committee and by investigating additional allegations that came to light during the investigation. The magistrate judge recommended that the court grant the defendants' motion to dismiss. Meeks did not object to that recommendation. We await the court's order. The Attorney General represents Weston and Powell.

**Teresa Waters v. "State of North Carolina Bar Association" (NC Industrial Commission).** Waters filed this purported tort claim, alleging that the "State of North Carolina Bar Association" failed to investigate grievances she filed. She also filed grievances at the Judicial Standards Commission alleging that the Commission failed to investigate grievances she filed. Her allegations are largely incomprehensible. Waters sought unquantified recovery for alleged financial harm and emotional distress, costs and attorney fees. The deputy commissioner dismissed the claims with prejudice on June 13. Waters appealed. A Full Commission hearing was scheduled for October 16 but the Commission announced that it will decide the case on the written record. The Attorney General represents the State Bar.

**Shahsultan Jaffer v. Archie Smith et al (NC Industrial Commission).** Jaffer filed this purported tort claim against the State Bar and other government agencies and officials. It contains no allegations of acts or omissions by the State Bar or by any of its employees or agents. The Attorney General represents the State Bar.

**Valerie Arroyo v. North Carolina State Bar (Cabarrus County Superior Court).** On September 28, Arroyo again sued the State Bar, this time alleging that the State Bar denied her due process by obtaining an injunction preventing her engaging in the unauthorized practice of law and by failing to discipline lawyers against whom she filed grievances. She seeks unspecified damages. The Attorney General represents the State Bar.

### **Completed Litigation**

**N.C. State Bar v. Valerie Arroyo (Wake County Superior Court).** At the April 2021 meeting, the Executive Committee authorized counsel to file a lawsuit seeking to enjoin Valerie Arroyo's unauthorized practice of law. Arroyo, who is not licensed to practice law in North Carolina, has filed multiple tort claim actions and lawsuits on behalf of others. The court denied Arroyo's motion to dismiss, granted the State Bar's motion to dismiss Arroyo's counterclaim, entered a preliminary injunction prohibiting Arroyo's unauthorized practice of law, and denied Arroyo's motion for summary judgment. On December 2, 2022, the court granted summary judgment for the State Bar and enter a permanent injunction. Arroyo appealed but did not perfect the appeal. The Office of Counsel represented the State Bar.

**North Carolina State Bar v. Michelle Meeks (Wake County Superior Court).** Pursuant to N.C. Gen. Stat. § 84-28(i), the State Bar petitioned the Wake County Superior Court for an injunction enforcing a subpoena it issued to Mrs. Meeks. Mrs. Meeks is the spouse of attorney Eddie Meeks, who is the subject of multiple State Bar investigations. As a defense, Mr. Meeks

placed sole responsibility for the misconduct on his wife. Then, in response to a State Bar subpoena, Mr. Meeks instructed Mrs. Meeks to refuse to answer every question. In this action, the State Bar successfully obtained an order requiring Mrs. Meeks to participate in the subpoenaed interview without frivolous objections. That interview has been successfully completed and this superior court case is concluded. The Office of Counsel represented the State Bar.

### **Client Security Fund Claims/Subrogation Cases**

The Client Security Fund Board held its quarterly meeting on October 26, 2023. The Board paid 48 claims and denied eight claims. The Board will consider 28 claims at its January 16, 2024, meeting. There are currently no lawsuits pending in superior court seeking reimbursement for payments made by the CSF.

### **Disbursement Cases**

This quarter, the OOC reviewed several files and drafted one order and two motions for escheatment or disbursement of client funds belonging to suspended or disbarred attorneys.

### **Trusteeships**

Trustees were appointed to wind down the practices of deceased lawyer **Ann B. Petersen** of Chapel Hill, and of **Darryl G. Smith** of Wilson, who is suffering from a disability that has left him unavailable to clients.

## **APPEALS IN OTHER LITIGATION IN THE STATE AND FEDERAL COURTS**

### **Completed Appeals**

No appeals were completed this quarter in other litigation in the state and federal courts.

### **Pending Appeals**

There are no pending appeals in other litigation in the state and federal courts.

## **PERSONNEL**

Carmen Bannon was appointed as Counsel by unanimous vote of the State Bar Council on December 19, 2023. Katherine Jean has transitioned to an Of Counsel role within the OOC.

## **MISCELLANEOUS**

The State Bar contracted with Legal Lean Sigma, a company that provides process improvement training and facilitation, as part of our effort to improve efficiency in the OOC's handling of grievances. Many OOC employees received "yellow belt" certifications in process improvement and project management after an intensive week-long training program in November. During upcoming full-day workshops with the Legal Lean facilitators, the OOC will apply its new knowledge to develop and implement specific process improvement initiatives designed to enhance the intake/screening of new grievances and eliminate the backlog of aging grievances.

Kelley staffs the subcommittee on grievance deferral programs and handles most of the inquiries from judges. She has been teaching ethics CLEs and looks forward to more teaching opportunities in the future. When not fielding calls from judges or working on her caseload, you can find her playing French Horn for a local town band.

Tessa staffs the Authorized Practice Committee.

Jennifer volunteers as a judge with the Capital Area Teen Court program in Raleigh and Holly Springs, which serves the dual purposes of providing the opportunity for teens charged with minor offenses to have the charges dismissed upon successful completion of the program and providing teens interested in the law with the opportunity to serve as youth attorneys in Teen Court hearings. Jennifer also serves as a judge for collegiate mock trial competitions. Jennifer, assisted greatly by her extraordinary paralegal Brittany, tracks trust account-related cases and updates the disposition charts annually. Jennifer staffs the State Bar's LAMP Committee. Jennifer also serves on the History Committee of the Wake County Bar Association.

Carmen is an Associate Adjunct Professor of professional responsibility at UNC Law. As a past president of the Wake County Bar Association, she remains active in the organization. She is working to scale back her CLE commitments in light of her new role within the OOC.

Alex currently oversees the new grievance intake process, designed to improve efficiency and workflow within the OOC. Alex regularly teaches CLEs on ethics and technology. As the most technologically-adept lawyer in the OOC, he regularly helps his colleagues navigate technological challenges. Alex serves on the committee coordinating our new regulatory software implementation and helps oversee administration of our legal research and investigative software. Alex also routinely staffs and assists subcommittees of the Issues Committee.

Leonor is the Trust Account Compliance Counsel. She serves on the Board of Directors for the 10th JD/Wake County Bar Association and as chair of its Swearing-In Committee. Leonor staffs the PMBR Committee. She is also a member of the NCBA Professionalism Committee. She often presents at CLE programs on the topic of trust account management.

Savannah oversees the registration of prepaid legal services plans and staffs the subcommittee studying legal deserts. This quarter, she presented a 2023 Legislative Review CLE Program for the NCBA and an Overview of the North Carolina State Bar during the NCBA's Professionalism for New Attorneys CLE. Savannah and her husband are expecting a baby boy in February 2024.

Barry handles the appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers. He also staffs the Client Security Fund. Barry and investigator Doug Miller have been working with Investor's Title to host wire fraud summits designed to prevent wire fraud affecting trust accounts and to educate lawyers and their staff about scam prevention. Barry and Doug also worked with Investor's Title and the North Carolina Real Estate Commission (NCREC) to offer wire fraud prevention CLEs for lawyers, paralegals and brokers. In October, the Association of Real Estate License Law Officials (ARELLO), presented NCREC, Investor's Title, and the State Bar with the 2023 Education Award for those series of CLE/CEs. Barry continues to mentor a third-year law student in the Campbell Law Connections Mentorship Program.

Cameron helps Barry with the appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers and staffs the Access to Justice Committee's Subcommittee on Legal Deserts. He also serves as a member of the Wake County Bar Association's History Committee. Despite being a millennial, Cameron is probably the least technologically-adept lawyer in the OOC.

Liza oversees the State Bar's rule amendment process, including formatting and updating the administrative rules, coordinating publication of rule amendments to the Council and the profession, and facilitating submission of rule amendments to the Supreme Court and the Office of Administrative Hearings. Liza also handles advertising grievances and public records requests for the OOC.

Rob handles disbursements from the trust accounts of disbarred and suspended lawyers. He recruits and supervises our summer interns. He also shares responsibility for the State Bar's outside litigation and appeals with Kathryn Shields.

Kathryn shares responsibility with Rob for the State Bar's outside litigation and appeals.

Katherine serves on the Professionalism and Women in the Profession committees of the NCBA.

Jessica is presenting at a CLE in February and looks forward to future CLE presentations.