

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

GRIEVANCES

In 2010, 1317 grievance files were opened. In 2011, 1499 grievance files were opened. In 2012, 1239 grievance files were opened. In 2013, 1205 grievance files were opened. In 2014, 1222 grievance files were opened. In 2015, 1331 grievance files were opened. Between January 1 and January 15, 62 grievance files were opened.

ATTORNEY CLIENT ASSISTANCE PROGRAM

The ACAP staff responded to 2,709 phone calls from members of the public and contacted 668 lawyers in an effort to resolve concerns expressed by clients. Staff also responded to 257 emails and to 476 letters from inmates.

There were 136 requests for fee dispute resolution filed during the quarter. The two State Bar facilitators were assigned to 101 files. The remaining 35 files were sent to district bar committees.

CASES COMPLETED SINCE OCTOBER 2015 MEETING

Completed Discipline Cases in the DHC

Meleisa Rush Lane – 15 DHC 1

Lane, of Fayetteville, misappropriated entrusted funds and did not file and pay federal and state income, corporate, and payroll taxes. She was disbarred by the DHC.

H. Russell Vick & Jimmy Pettus – 15 DHC 6

It was alleged that Vick and Pettus, partners in a Greensboro law firm, misappropriated employees' Simple IRA contributions and federal and state tax withholdings while the partners were receiving large salaries and distributions from the firm. Before hearing, Pettus surrendered his license and was disbarred by the DHC. Pettus, the firm's managing partner, admitted that between November 2010 and December 2011, he misappropriated entrusted federal and state tax withholdings and employees' Simple IRA contributions for his own benefit or for the benefit of the firm. In a consent order, Vick received a one-year suspension stayed on enumerated conditions for failing to ensure that Pettus conformed to the Rules. The panel found that, during a portion of the relevant time period, Vick suffered from a neurological illness which contributed to his lack of attention to and awareness of Pettus's actions.

Dan Merrell – 15 DHC 12

In 2012, Merrell of Kitty Hawk submitted affidavits for use in an appeal and in a civil case that revealed confidential information acquired through his previous attorney-client relationship with the Town of Kill Devil Hills and used confidential information to the disadvantage of his former client. At the close of the State Bar's evidence and after Merrell's motion to dismiss was denied, he conceded the violation of Rules 1.6 and 1.9(c). The hearing panel accepted the parties' recommendation that Merrell receive a four-year suspension stayed on enumerated conditions.

Victor Morgan – 15 DHC 18

Morgan, of Jacksonville, neglected several clients' cases and did not properly wind down his law practice after he was suspended in June 2013. Morgan also did not refund unearned fees or respond to communications by the State Bar. He was disbarred by the DHC.

Cassandra Skerrett – 15 DHC 21

Skerrett, of Hendersonville, converted and accessed a client's computers. After the client terminated the representation, Skerrett dismissed the former client's civil complaints without consent, intentionally prejudiced the former client, and did not protect the former client's interests. In another former client's matter, Skerrett took entrusted settlement funds as administrative fees or as a purported non-refundable flat fee without the client's authorization, charged and collected a clearly excessive fee, and made cash withdrawals from a trust account that she maintained for the client. The evidence did not establish that Skerrett assisted the client in committing tax evasion. The DHC suspended Skerrett's license for four years. After serving two years active suspension, she may petition for a stay of the balance upon showing compliance with numerous conditions.

Carl Wright – 15 DHC 25

Wright, of High Point, did not reconcile his trust account, did not maintain proper trust account records, disbursed funds from his trust account on behalf of clients for whom he had not yet deposited funds in trust, did not timely disburse entrusted funds, did not provide written accountings of entrusted funds, and commingled his personal funds with entrusted funds. The DHC suspended Wright for two years. The suspension is stayed for two years upon his compliance with numerous conditions.

Jonathon McElroy – 15 DHC 26

McElroy, of Asheville, committed extensive trust accounting violations, disbursed funds differently than recorded on HUD-1 Settlement Statements, did not timely complete title opinions and pay title insurance premiums, did not appear in court for his client, did not inform clients for whom he held entrusted funds that he had been enjoined by the court from handling entrusted funds, did not communicate adequately with his clients, and did not provide information requested by the Grievance Committee. The DHC suspended him for five years. After serving three years active suspension, McElroy will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions.

Robert P. Tucker, II – 15 DHC 30

Tucker, of Asheville, did not perform quarterly reconciliations of his trust account, disbursed more funds on behalf of clients than he held in trust for their benefit, did not send annual accountings of entrusted funds, and did not take timely action to resolve outstanding checks and complete disbursements. In some instances, Tucker did not consult with the client before disbursing the client's funds after receiving disbursement instructions that were inconsistent with the client's stated goals. In one closing, Tucker did not communicate adequately with a lender regarding the lender's closing instructions and provided the lender with a HUD-1 Settlement Statement that did not show the source of funds received from the borrower in the transaction. In some instances involving a potential conflict of interest between the client and an entity of which Tucker was a member, Tucker did not obtain informed consent confirmed in writing from

clients. The DHC suspended Tucker for two years. The suspension is stayed for three years upon his compliance with numerous conditions.

Leroy R. Castle – 15 DHC 31

Castle, of Durham, did not comply with his client's request that he return the client's documents. He was suspended by the DHC for three years.

Joseph C. Delk III – 15 DHC 32

Delk, of Lenoir, underwent two random audits that revealed extensive violations of trust accounting rules. Delk utilized entrusted funds for unauthorized purposes by disbursing more funds for the benefit of clients than he held in trust on their behalf and by failing to reimburse his trust account for credit card fees deducted by the card companies. The DHC suspended Delk for two years. The suspension is stayed for two years upon his compliance with numerous conditions.

John Peter Cattano – 15 DHC 35

Cattano, of Charlottesville, Virginia, made misleading or false statements in his petition for reinstatement from inactive status and in correspondence with the State Bar. The DHC suspended Cattano for three years. The suspension is stayed for three years upon his compliance with numerous conditions.

Christopher Heiskell – 15 DHC 37

Heiskell, formerly of Raleigh but now residing in West Virginia, used a law firm corporate credit line to obtain unauthorized funds, obtained a reimbursement by false pretenses, neglected client matters, and made false statements during the grievance investigation. Heiskell surrendered his license during the presentation of evidence in his DHC hearing and was disbarred by the DHC.

Daiva Bulluck – 15 DHC 43

Bulluck, of Jefferson, mismanaged entrusted funds, did not maintain client ledgers, did not reconcile her trust account, and did not respond to the State Bar's request for records. She was suspended by the DHC for three years, stayed for three years upon her compliance with numerous conditions.

Sir Ashley Harrison – 15 DHC 46

Harrison, of Charlotte, neglected multiple clients and did not respond to the State Bar. The DHC suspended him for five years. After serving three years active suspension, Harrison may petition for a stay of the balance upon showing compliance with numerous conditions.

Jonathan Silverman – 15 DHC 48

Silverman, of Sanford, engaged in sexual intercourse with his current client and engaged in a conflict of interest by resuming the representation after initially withdrawing due to the sexual relationship. The DHC suspended Silverman for 3 years. After serving 18 months active suspension, Silverman will be eligible to petition for a stay of the balance upon showing compliance with numerous conditions.

Completed Discipline and Disability Cases in the Courts

Randy Lemay Cartrette of Whiteville surrendered his license and was disbarred by the Columbus County Superior Court. Cartrette pled guilty to one misdemeanor count of common law forgery and seven misdemeanor counts of common law obstruction of justice.

The Cherokee County Superior Court entered an interim suspension of the law license of Bryson City lawyer **Eric Winston Stiles** after Stiles was charged with felony offenses including illegally possessing methamphetamine with the intent to sell or deliver.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were entered this quarter.

Transfers to Disability Inactive Status

Janet M. Pueshel of Raleigh was transferred to disability inactive status by the Chair of the Grievance Committee.

Interim Suspensions

The chair of the DHC entered an interim suspension of the law license of **Karla Simon**. Simon, of California or Connecticut, was convicted in Massachusetts of 29 counts of misdemeanor Violation of Harassment Prevention Order and nine counts of felony Intimidate Witness/Juror/Police/Court Official.

The Cherokee County Superior Court entered an interim suspension of the law license of Bryson City lawyer **Eric Winston Stiles** after Stiles was charged with felony offenses including illegal possession of methamphetamine with the intent to sell or deliver.

Completed Petitions for Reinstatement/Stay - Uncontested

There were no uncontested petitions for reinstatement completed this quarter.

Completed Petitions for Reinstatement/Stay - Contested

William Schilling – 13 DHC 24 & 15 BSR 7

In February 2014, the DHC suspended Shilling, formerly of Franklin, for two years. The order of discipline permitted Shilling to petition for a stay of the balance after serving one year of the suspension. Conditions for obtaining a stay included demonstrating that he received treatment from an approved therapist and that the therapist submitted monthly reports to the State Bar. The DHC granted his petition for a stay of the remaining suspension. Shilling must show compliance with numerous conditions during the stay.

Marshall Dotson, III – 12 DHC 20 & 15 BSR 8

Dotson, of Asheboro, was suspended for five years in September 2013. The order of discipline provides that, after serving one year of the suspension, Dotson would be eligible to apply for a stay of the balance upon demonstrating compliance with enumerated conditions. The DHC granted his petition for a stay of the remaining suspension. Dotson must show compliance with numerous conditions during the stay.

Completed Motions to Show Cause

There were no motions to show cause completed this quarter.

TROs and Preliminary Injunctions

The office obtained preliminary injunctions in Wake County Superior Court prohibiting **Donna Karen Cody** of Robbinsville, **Scott Justin McCormick** of Winston-Salem, **Michael S. Williamston** of Goldsboro, **Robert M. Chandler, Jr.** of Rocky Mount, and **Lennard Tucker** of Winston-Salem from handling entrusted funds.

Surrenders to the Council

At the October meeting, Margaret tendered the affidavit of surrender of law license of Guilford County lawyer **L.J. Blackwood II** to the State Bar Council. Blackwood acknowledged that he misappropriated entrusted funds totaling \$87,938.38. He was disbarred by the Council.

PENDING DISCIPLINE AND DISABILITY CASES

Bradley R. Lamb – 07 DHC 28

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

Robert Melville, Jr. – 13 DHC 9

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

Jennifer Foster – 14 DHC 7

It is alleged that Foster, of Asheville, used expletives before a state court magistrate. The Court of Appeals reversed her contempt conviction. Hearing was continued from June 12 due to Foster's pending federal court lawsuit against the magistrate and others and has not been rescheduled.

Jerry Tillett – 15 DHC 7

Judge Tillett, of Manteo, is alleged to have engaged in conduct prejudicial to the administration of justice. On December 10, 2015, the DHC granted the State Bar's motion for summary judgment, concluding as a matter of law that Tillett violated Rule 8.4(d). The phase two hearing has not been scheduled.

Christopher W. Livingston – 15 DHC 15

Livingston, of White Oak, allegedly assisted a debt elimination organization in the unauthorized practice of law, attempted to share a legal fee with a non-lawyer, filed frivolous pleadings, knowingly made a false statement of material fact to a third person, engaged in conduct prejudicial to the administration of justice, and used means that had no substantial purpose other than to burden or embarrass a third person. Hearing is scheduled for February 23-24.

Thomas Hicks – 15 DHC 16

Hicks, of Wilmington, allegedly mismanaged his trust account, neglected a client, and misappropriated interest earned on fiduciary funds. He is enjoined from handling entrusted funds. Hearing is scheduled for February 25-26.

William Brown – 15 DHC 28

Brown, of Fayetteville, was convicted of failing to file a federal income tax return. He is currently imprisoned as a result of this conviction. He is also serving two active disciplinary suspensions imposed by the DHC. Hearing has not been scheduled.

Michael C. Stamey – 15 DHC 33

It is alleged that Stamey, of Jamestown, misappropriated entrusted funds, abandoned his law practice, did not communicate with and did not act diligently and competently in representing his clients, did not maintain proper trust account records, and did not respond to the Grievance Committee. He is enjoined from handling entrusted funds. Hearing was continued and has not been rescheduled.

Edward D. Seltzer – 15 DHC 34

It is alleged that Seltzer, of Charlotte, exhibited gross failures of diligence in two estates for which he served as personal representative and that he neglected and failed to communicate with a criminal client. Hearing is scheduled for March 11.

Karla Simon – 15 DHC 36

Simon, of California or Connecticut, was convicted in Massachusetts of 29 counts of misdemeanor Violation of Harassment Prevention Order and nine counts of felony Intimidate Witness/Juror/Police/Court Official. Simon is on interim suspension. Her file is on the Grievance Committee's January agenda.

Clifton Gray - 15 DHC 38

It is alleged that Gray, of Greenville and Raleigh, was aggressive and disruptive in multiple cases, engaged in contempt of court on more than one occasion, was convicted of assault in a road-rage incident, neglected multiple clients, and chronically failed to respond to the State Bar. Hearing is scheduled for March 28-April 1.

Warren Ballentine - 15 DHC 39

Ballentine, of Durham, was convicted in the United States District Court for the Northern District of Illinois of mail fraud affecting a financial institution, wire fraud affecting a financial institution, two counts of bank fraud, and two counts of making false statements to financial institutions. He is on interim suspension. Hearing has not been scheduled.

Wade H. Leonard, Jr. – 15 DHC 40

It is alleged that Leonard, of Mocksville, did not supervise his non-lawyer assistants, did not timely submit mortgage payoffs, did not perform quarterly three-way reconciliations of his trust account, did not maintain proper trust account records, used clients' entrusted funds to pay other clients' late fees that were assessed due to Leonard's failure to timely submit mortgage payoffs, and split his legal fee with his non-lawyer assistant. Hearing is scheduled for February 12.

Katherine Heath Pekman 15 DHC 41

It is alleged that Pekman, of Hickory, did not communicate with and act diligently on behalf of a client, did not return unearned fees, did not account for unreturned fees, and did not respond to the Grievance Committee. Hearing is scheduled for February 4.

Bridgette D. Johnson – 15 DHC 42

It is alleged that Johnson, of Greensboro, mismanaged entrusted funds, did not maintain client ledgers and comply with other trust account recordkeeping requirements, did not reconcile her trust account, and did not respond to the State Bar's request for records. Hearing is scheduled for March 11.

Robert E. Griffin – 15 DHC 44

It is alleged that Griffin, of Fuquay-Varina, made a false statement to the State Bar in his response to a grievance, did not timely respond to a fee dispute, did not communicate with a client, disclosed confidential client information, and did not timely refund fees. Hearing is scheduled for February 5.

Devin Ferree Thomas – 15 DHC 45

It is alleged that Thomas, of Greensboro, did not respond to a lawful demand for information from the State Bar, did not communicate with clients, neglected his representation of personal injury clients, and misappropriated entrusted client funds. Hearing is scheduled for March 18.

Michael J. Anderson – 15 DHC 47

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 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. Hearing is scheduled for March 10-11.

Nathan M.J. Workman – 15 DHC 49

It is alleged that Workman, of Indian Trail, failed to appear at show cause hearings in two estate matters and committed trust account violations. Hearing is scheduled for February 25-26.

Kevin P. Byrnes – 15 DHC 50

It is alleged that Byrnes, of Charlotte, engaged in gross trust account mismanagement and failed to file or pay income taxes for seven years. Hearing is scheduled for February 19.

Michelle Hickerson – 15 DHC 51

It is alleged that Hickerson, of Chapel Hill, gave false testimony in a deposition and made false representations in a pleading filed with the court. Hearing is scheduled for March 4.

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

It is alleged that the Soboleskis, of Asheville, did not reconcile their trust account, maintain accurate client ledgers or comply with other trust account recordkeeping requirements, overdisbursed client funds, disbursed fees to themselves before they were earned, and allowed the balance in their trust account to fall below that which they were required to hold on behalf of clients. Hearing is scheduled for March 3-4.

Marlon Messer – 15 DHC 53

It is alleged that Messer, of Altadena, California, aided another entity in the unauthorized practice of law in multiple states, committed a criminal act that reflects adversely on his professional fitness, improperly solicited professional employment from a potential client, made false or misleading statements about his services, failed to keep his clients reasonably informed, and charged and collected illegal or clearly excessive fees. Hearing is scheduled for March 31-April 1.

John Brooks Reitzel, Jr. – 15 DHC 54

It is alleged that Reitzel of High Point engaged in the unauthorized practice of law in South Carolina in two matters, which is a felony in South Carolina. Hearing has not been scheduled.

Dawn E. Ely – 16 DHC 1

It is alleged that Ely of Atlanta held herself out in on-line advertisements as able to offer in-house counsel to North Carolina and Georgia businesses even though she was administratively suspended at the time in both states. Hearing has not been scheduled.

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 has not been scheduled.

Kelly Calloway – 16 DHC 3

It is alleged that Calloway, of Hendersonville, did not file tax returns and did not pay federal withholding and unemployment taxes between 2006 and early 2012 and that he did not file and pay state taxes in 2009. Hearing has not been scheduled.

John Averitt – 16 DHC 4

It is alleged that Averitt, of Cary, forged a letter purporting to be from the Augusta National Golf Club, falsely represented that his employer had 8 tickets to the Masters golf tournament, and sold the fictitious tickets on Craig’s List. Hearing has not been scheduled.

John “Monte” Holmes - 16 DHC 5

Holmes, of Sanford, was convicted of a number of criminal offenses, including assault on a government official, in connection with an incident of extreme public intoxication. Hearing has not been scheduled.

Pending Motions to Show Cause

There are no pending Motions to Show Cause.

Pending Petitions for Reinstatement/Stay - Uncontested

There are no uncontested pending petitions for reinstatement.

Pending Petitions for Reinstatement/Stay - Contested

Stephen L. Snyder – 14D1 & 15RD1

Snyder was placed on disability inactive status in March 2014 as a result of his severe vertigo which significantly impaired his ability to practice law. Snyder claims his previously disabling condition has been resolved and is seeking to return to active status with the State Bar. Hearing is scheduled for March 18.

TRUST ACCOUNT SUPERVISORY PROGRAM

Twenty-five lawyers have successfully completed the TASP program since its inception. Peter currently supervises 12 participants in the program. He continues to review random audits to evaluate potential candidates for the program.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 28 new files this quarter. The committee will address 23 files at its January meeting.

Annual registration forms were sent out this quarter pursuant to 27 N.C.A.C. 1E, § .0307. All but seven plans – 12PP04, 09PP22, 09PP21, 06PP02, 07PP01, 06PP03, and 14PP01 – have submitted the necessary forms and the \$100.00 annual renewal fee to qualify for registration for the 2016 year. Pursuant to 27 N.C.A.C. 1E, § .0312 and subject to the approval of the Authorized Practice Committee, if the seven remaining plans have not submitted the annual registration forms and renewal fee by the cut-off date established in the regulations – January 31 – the Secretary of the State Bar will issue the plans an order revoking their plan registrations with the State Bar.

Six different plans submitted amendments to their plan materials this quarter. Staff counsel determined that all of the amendments complied with the rules. Consequently, these amendments were all accepted.

Three plans, 03PP14, 03PP15, and 03PP16, requested to withdraw their registrations from the State Bar this quarter. These requests were granted.

Staff counsel investigated two complaints against registered plans this quarter. Both were resolved without any formal action by the Committee.

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

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

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

LegalZoom.com, Inc. v. NC State Bar (NC Business Court). LegalZoom, a national online legal document preparation service, commenced this action against the State Bar in September 2011. In October 2015, the parties entered into a settlement agreement and the case was dismissed. The Attorney General and Van Laningham Duncan represent the State Bar.

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

State of North Carolina *ex rel* Roy Cooper and North Carolina State Bar v. Swift Rock Financial, Inc., d/b/a World Law Debt, a/k/a World Law Group; Orion Processing, LLC, d/b/a World Law Processing; Derin Scott; Bradley Haskins; World Law South, Inc; Global Client Solutions (Wake County Superior Court). In May 2013, the State Bar filed this action in Wake County Superior Court as co-plaintiff with the Consumer Protection Division of the North Carolina Department of Justice. The plaintiffs allege that all of the defendants other than Global Client Solutions operate collectively and interchangeably under various names that include the words “World Law.” The plaintiffs allege that the defendants draft and provide pleadings for debtors to file “*pro se*” and provide those debtors with scripts to use in court. The plaintiffs obtained a temporary restraining order in May 2013 and a preliminary injunction in June 2013 prohibiting the World Law defendants, “together with their officers, agents, employees, attorneys, and all persons acting in concert with them,” from engaging in the practice of law in North Carolina as defined in N.C. Gen. Stat. §§ 84-2.1, 84-4 and 84-5, from collecting fees from North Carolina consumers for any debt adjusting or legal services, and from transferring, concealing, spending or disposing of any funds received, directly or indirectly, from any North Carolina consumer in connection with any such activities. Thereafter, the lawyer who represented all of the World Law defendants at the TRO hearing formed a new North Carolina business corporation, World Law South. WLS sued the State Bar alleging that it somehow harmed WLS by bringing the lawsuit against WLG. In that lawsuit, WLS alleged that it employs the identical business model that the TRO and the preliminary injunction forbid the World Law defendants and their affiliates to employ in North Carolina. The Business Court dismissed the WLS case. The instant lawsuit is still pending in Wake County Superior Court, has been denominated an exceptional case, and is assigned under Rule 2.1 to the Honorable James Gale. The plaintiffs amended the complaint to add Brad Haskins and WLS as defendants. Haskins and Swift Rock are in default. WLS filed articles of dissolution. Counsel for Scott and WLS have been allowed to withdraw. The plaintiffs took a voluntary dismissal without prejudice of their claims against Global Client Solutions after it was enjoined by the FTC from providing banking services to the other defendants. On the eve of taking depositions, Orion filed for Chapter 11 bankruptcy protection in Texas. The Business Court rejected Orion’s contention that the automatic stay prevents the plaintiffs proceeding with this action against any of the defendants. The Orion bankruptcy has been converted to Chapter 7 and the business is now in liquidation. The Consumer Financial Protection Bureau (CFPB) filed a federal action against all of the defendants in Florida, raided Orion’s premises, obtained a preliminary injunction and froze the corporate and individual defendants’ assets. None of the defendants is currently doing business in North Carolina. The Court denied WLS’ Motion to Dismiss. Plaintiffs are working toward entry of default judgments and consent judgments with the remaining parties. The Office of Counsel represents the State Bar.

NC State Bar v. Diane Carter (Wake County Superior Court). The Office of Counsel filed a motion to hold Carter in contempt of a permanent injunction prohibiting her representing others in lawsuits against a homeowners association. Carter removed the case to the Federal District Court for the Eastern District of North Carolina. The federal court remanded the case to Wake County Superior Court. The Office of Counsel will resume its enforcement action.

N.C. State Bar v. Kenneth Moore (Wake County Superior Court). In October 2014, the Executive Committee authorized the Office of Counsel to seek an injunction against Kenneth Moore. Moore operates “Way More Post-Conviction Services” which offers post-conviction services to criminal defendants. The complaint has been filed and served upon the corporation. Attempts to serve Moore are ongoing.

N.C. State Bar v. Universal Management LLC and A Divorce by Phone LLC d/b/a A Cheap and Fast Divorce (Wake County Superior Court). Also in October 2014, the Executive Committee authorized the Office of Counsel to seek an injunction against this Wyoming entity that offers to provide divorce pleadings. The Court entered judgment by default.

N.C. State Bar v. Hassie Nowlin (Wake County Superior Court). Also in October 2014, the Executive Committee authorized the Office of Counsel to seek an injunction against Hassie Nowlin. It is alleged that Nowlin filed pleadings on behalf of others in numerous cases in the United States District Court for the Middle District of North Carolina. The Court entered judgment by default.

N.C. State Bar v. Constanza Sierra (Wake County Superior Court). In January 2015, the Executive Committee authorized the Office of Counsel to seek an injunction against Constanza Sierra. The State Bar alleges that Sierra is preparing immigration petitions and applications for others. She is also being sued by plaintiffs represented by the North Carolina Justice Center. The Court entered a consent permanent injunction.

N.C. State Bar v. South Mountain Group (Wake County Superior Court). In April 2015, the Executive Committee authorized the Office of Counsel to seek an injunction against this real estate settlement company. The defendant is operated by a Maryland lawyer and is alleged to engage North Carolina lawyers to prepare deeds and handle other legal aspects of residential real estate closings. Counsel has prepared the complaint for the Chair’s approval.

OTHER OUTSIDE LITIGATION

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

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

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

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

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

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*. Prior to a hearing on WRAL's motion for temporary restraining order, the parties reached a resolution of the dispute.

Eugene Boyce v. The North Carolina State Bar (Wake County Superior Court). Boyce is a Raleigh lawyer who was licensed in 1956. Boyce alleges that he filed a grievance with the State Bar, that the State Bar has a conflict of interest in addressing that grievance, and that the State Bar did not address that grievance as he demanded. Boyce acknowledges that his purpose in filing this lawsuit is to "have clarified, resolved and confirmed his good standing and licensure status ... as well as a final ruling on the last remaining issue of this fifteen year old controversy." He prays for a declaratory judgment that another agency has concurrent jurisdiction with the State Bar, for a declaratory judgment that the grievance he filed should therefore be referred elsewhere, and for an award of costs.

Client Security Fund Claims/Subrogation Cases

There are 22 claims on the agenda for the Board's January 21 meeting.

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

Disbursement Cases

One disbursement case was completed in Superior Court during the quarter. Several disbursement motions are ready for hearing.

Trusteeships

Trustees were appointed for deceased lawyer **Janet M. Downing** of Fayetteville and for **Eric Winston Stiles** of Bryson City following his suspension by the Court.

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

APPEALS

Completed Appeals

In March 2015, the State Bar filed a DHC complaint against **Jerry Tillett**. Tillett filed a motion to dismiss in lieu of answer. Before the DHC ruled on that motion, Tillett filed a petition for writ of prohibition to the North Carolina Court of Appeals seeking to enjoin the DHC proceeding. The Court of Appeals denied that petition. The DHC denied Tillett's motion to dismiss and he filed notice of appeal to the Court of Appeals. The Court of Appeals denied his petition for writ of *supersedeas* and his motion for temporary stay. Tillett also filed in the Court of Appeals a

petition for writ of *certiorari* and alternative motion to suspend appellate rules. The Court of Appeals heard oral argument in the case on November 18, 2015. On December 4, 2015, the Court of Appeals denied Tillett's petition for writ of *certiorari* and alternative motion to suspend appellate rules and granted the State Bar's motion to dismiss the appeal.

In November 2014, the DHC disbarred Durham lawyer **Christopher G. Harper**. The DHC found that Harper misappropriated entrusted funds. Harper appealed. Harper served the State Bar with a proposed record on appeal but ultimately did not file a record on appeal. The DHC dismissed Harper's appeal in October 2015. In December 2015, the DHC denied post-trial motions for a new hearing and to vacate the judgment. On January 7, 2016, Harper filed notice of appeal from that ruling.

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

In May 2012, the State Bar filed a disciplinary complaint against **Tracey Cline** for conduct that occurred while she was District Attorney for the 14th Judicial District (Durham County). Cline was removed from office as District Attorney for the same conduct. The DHC proceeding was stayed while Cline pursued appeals of the removal order. In June 2015, the DHC entered an order of discipline suspending Cline's license for five years. The order allowed her to petition for a stay of the suspension after serving two years active and gave her credit for any time she had not practiced law since her removal from office. Cline appealed. She did not file a record on appeal within the time allowed. On January 5, 2016, the DHC granted the State Bar's motion to dismiss the appeal.

Pending Appeals

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

[Please see discussion of *NCSB v. Tillett* in the **Completed Appeals** section above]. In the meantime, Tillett filed a separate notice of appeal from the DHC's denial of his motion for judgment on the pleadings and filed petitions for writs of *supersedeas*, *certiorari*, mandamus/prohibition and a motion for temporary stay at the Court of Appeals, all of which the Court denied. Tillett's motion to dismiss his appeal of the DHC's denial of his motion for judgment on the pleadings, citing the Court of Appeals' ruling in the appeal of his motion to dismiss, is pending. Tillett also filed a separate lawsuit in Dare County Superior Court seeking to enjoin the DHC proceedings, described in the **Outside Litigation** section, above. The

Supreme Court has not ruled on Tillett's petition for discretionary review, in which he seeks to bypass the Court of Appeals, a procedure which is prohibited in appeals from the DHC.

[Please see discussion of *NCSB v. Harper* in the **Completed Appeals** section above]. In December 2015, the DHC denied Harper's post-trial motions for a new hearing and to vacate the judgment. On January 7, 2016, Harper filed notice of appeal from that ruling.

PERSONNEL

Jeff Lundgren, who was a temporary paralegal in the Office of Counsel, became a permanent employee this quarter.

MISCELLANEOUS

Leonor continues to serve on the NCBA Law Related Education and Minorities in the Profession committees and on the 10th Judicial District/Wake County Bar Association Professionalism Committee, where she is co-chair of the Publications Subcommittee.

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.

Carmen continues to serve as the Office of Counsel's liaison to the judiciary. She is Vice-Chair of the Wake County Bar Association's Professionalism Committee and just concluded a three-year term on the Board of Directors for the 10th Judicial District Bar and the WCBA. In the last quarter, Carmen gave a guest lecture at UNC Law and a presentation on ethics for Wake County criminal defense lawyers.

Jennifer continues to serve as attorney judge for mock trial competitions and expects to do so on January 23, 2016 for the annual Kilpatrick Townsend 1L Mock Trial Competition hosted by the University of North Carolina School of Law's Broun National Trial Team.

Brian continues to serve as vice-chair of the 10th Judicial District/Wake County Bar Association 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 New Admittee Program sponsored by the North Carolina Advocates for Justice and presented a CLE to the Wake County Academy of Trial Lawyers. Also in November, Brian served as a guest lecturer on the topic of expert testimony for a Forensic Entomology undergraduate course at NC State University.

Peter continues to give numerous trust account presentations across the state to lawyers and administrative professionals. He is a frequent guest lecturer in our law schools. He is working with the NCBA to create an interactive, online trust account education program for lawyers to use free of charge. Peter writes a quarterly trust accounting article in the *Journal* and maintains the State Bar's twitter account by which he notifies members of trust account scams that come to the State Bar's attention.