



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

**2014**  
**ANNUAL**  
**REPORT**

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***OFFICE OF COUNSEL***

The Office of Counsel is the legal department of the North Carolina State Bar. The office consists of disciplinary staff, authorized practice staff, the investigations department, the Attorney/Client Assistance Program (ACAP) staff, and trust account compliance counsel. The disciplinary staff reports upon all grievance files opened by the State Bar involving allegations of professional misconduct by North Carolina lawyers. It investigates and tries claims of professional misconduct and disability. The office assists the Authorized Practice Committee by investigating and resolving complaints concerning the unauthorized practice of law, including representing the State Bar in lawsuits to obtain injunctions prohibiting the unauthorized practice of law. It represents the State Bar in federal and state trial and appellate courts. The office provides legal counsel to the Client Security Fund Board of Directors and pursues subrogation actions for recovery of funds paid by the CSF. It coordinates the appointment of trustees to wind down the practices of deceased, disabled, and disbarred lawyers and coordinates appointment of trustees to wind down their practices. The office also provides legal opinions on issues of interest to all departments, committees, and boards of the State Bar.

The ACAP staff helps members of the public resolve problems with lawyers other than matters involving potentially serious violations of the Rules of Professional Conduct. The ACAP staff also provides information about the grievance process, the courts and the justice system, and helps resolve fee disputes between lawyers and their clients.

The Office of Counsel includes seventeen lawyers, one administrator, six paralegals, six administrative assistants, eleven investigators, one random auditor, one trust account compliance counsel, the ACAP director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator and two public liaisons.

The Office of Counsel is located in the State Bar Building, 217 E. Edenton St., Raleigh, N.C. 27601. It is open from 9 a.m. until 5 p.m. on weekdays and may be reached at 919-828-4620. Each staff person's telephone extension appears above.

# **2014 ANNUAL REPORT OFFICE OF COUNSEL THE NORTH CAROLINA STATE BAR**

## **Attorney Client Assistance Program**

The Attorney Client Assistance Program (“ACAP”) is comprised of five staff members: two public liaisons, two fee dispute resolution facilitators, one of which is a certified mediator, and one administrative assistant. During 2014 the staff responded to 11,347 calls from clients and various members of the general public. As a result of those calls, the ACAP staff contacted 3,114 lawyers in an attempt to resolve clients’ concerns. The ACAP staff also responded to 2,169 letters from inmates and 881 email messages from clients and lawyers.

The State Bar opened 643 fee dispute resolution files during 2014. Of those files, 147 files were assigned to the five judicial district fee dispute resolution committees. The remaining 496 were assigned to in-house facilitators.

## **Authorized Practice Committee**

The Authorized Practice Committee opened 100 investigation files in 2014, compared to 80 files opened in 2013. The committee resolved 105 files during 2014.

The committee also registers prepaid legal service plans. Plans must file initial registrations, amended registrations, and annual renewals. The committee does not approve plans, but does review registrations for compliance with the definition of prepaid legal service plans. During 2014, nine plans submitted registration applications; two plans were accepted for registration while seven were denied. Seventeen plans registered amendments to existing plans this year, and 68 plans submitted renewal registrations. At the request of a plan applicant, the committee held a hearing to review staff counsel’s determination not to register one plan. The committee also investigated to ensure that a plan was operating in compliance with the regulations. Currently, 70 prepaid plans are registered with the State Bar.

In May 2011, the office filed a civil action against **Lienguard, Inc.** in Wake County Superior Court. The complaint alleged that Lienguard, an Illinois company, prepared and offered to prepare mechanics and materialmen’s liens for filing in North Carolina. Lienguard moved the case to the North Carolina Business Court. When Lienguard amended its answer and filed a counterclaim, the Attorney General undertook to represent the State Bar. On April 4, 2014, the court granted judgment to the State Bar and enter a permanent injunction enjoining Lienguard’s unauthorized practice of law in North Carolina.

In 2011, the office was authorized to seek an injunction against **Craig McGannon**, a disbarred lawyer from another state. While he was employed by a law firm in North Carolina, McGannon held himself out as a lawyer to a North Carolina woman involved in domestic litigation. In June 2014, the Wake County Superior Court entered a consent permanent injunction enjoining McGannon’s unauthorized practice of law.

In July 2012, the office filed a civil action in Wake County Superior Court against **Grover and Patricia Jones**, who operated a West Virginia business that claimed to assist inmates on habeas corpus petitions and other legal matters. The office obtained a permanent injunction in October 2013. The Joneses' appeal was dismissed in April 2014.

In October 2012, the office was authorized to file for injunctive relief against **Mortgage Information Services**, an Ohio business which the State Bar alleges attempted to close residential loan transactions. The office has not yet filed the complaint.

In May 2013, the office filed an action in Wake County Superior Court as a co-plaintiff with the Consumer Protection Division of the North Carolina Department of Justice against **Swift Rock Financial, Inc., d/b/a World Law Debt, a/k/a World Law Group; Orion Processing, LLC, d/b/a World Law Processing; Derin Scott; Bradley Haskins; World Law South, Inc; Global Client Solutions**. The plaintiffs allege that all of those defendants operate collectively and interchangeably under various names that include the words "World Law." The plaintiffs allege that they draft and provide pleadings for debtors to file "*pro se*" and provide those debtors with scripts to use in court. The case is referred to as "the Swift Rock case." The plaintiffs obtained a temporary restraining order in May 2013 and a preliminary injunction in June 2013 prohibiting all of those defendants "together with their officers, agents, employees, attorneys, and all persons acting in concert with them," from engaging in the practice of law in North Carolina, as defined in N.C. Gen. Stat. §§ 84-2.1, 84-4, and 84-5, from collecting fees from North Carolina consumers for any debt adjusting or legal services, and from transferring, concealing, spending or disposing of any funds received, directly or indirectly, from any North Carolina consumer in connection with any such activities. Thereafter, the lawyer who represented those 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 has the identical business model that the Wake County Superior Court enjoined WLG from pursuing. The Business Court dismissed the WLS case. The Swift Rock case is still pending in the Business Court. The State and the State Bar amended the Swift Rock complaint in June 2014 to add WLS and Bradley Haskins as parties. The court appointed James Pendergrass as trustee of approximately 1100 checks and money orders that the defendants solicited in and after August 2014 from North Carolina and other consumers. The State Bar's motion to hold all of the defendants other than Global Client Solutions, their legal counsel and various other agents of defendants in contempt of the preliminary injunction is pending. The Office of Counsel represents the State Bar.

**LegalZoom.com, Inc.**, a national online legal document preparation service, commenced this action against the State Bar in September 2011. In 2008, the Authorized Practice Committee sent LegalZoom a cease and desist letter advising that it might commence a lawsuit if LegalZoom did not cease engaging in the unauthorized practice of law in North Carolina. In 2010, LegalZoom filed an application to register a purported prepaid legal service plan. The AP Committee did not register the purported plan because it failed to meet the definition of a prepaid legal service plan. The committee sent LegalZoom written notice of its reasons and asked LegalZoom to address the issues that were of concern to the committee. LegalZoom declined to do so. As a result, the committee had not yet made a final decision about

registering the purported plan. LegalZoom did not submit a revised plan and did not request a hearing. In this lawsuit, LegalZoom alleges that the State Bar is violating the anti-monopoly and equal protection clauses of the North Carolina Constitution and seeks declaratory and injunctive relief. The State Bar filed a counterclaim to enjoin LegalZoom's activities. The case was designated a Mandatory Complex Business Case under N.C. Gen. Stat. §7A-45.4 and moved to the NC Business Court. The court denied LegalZoom's motion for partial judgment on the pleadings and allowed in part and denied in part the State Bar's motion for judgment on the pleadings pursuant to N.C. Gen. Stat. §1A-1, Rule 12(c). The Attorney General represents the State Bar.

In April 2013, the office was authorized to seek injunctive relief against disbarred attorney **Tonya Ford**. After she was disbarred, Ford collected a fee to prepare wills and other documents for a couple. The office filed the complaint in Wake County Superior Court. Ford has repaid the fees she collected and has signed a consent permanent injunction which has not yet been entered.

In April 2013, the office was authorized to seek injunctive relief against **Shelley Bennett**. Bennett is a self-identified paralegal who advertised on a Spanish language radio station that he could handle immigration matters. The Wake County Superior Court entered a consent permanent injunction in April 2014.

In April 2013, the office was authorized to seek an order holding **Diane Carter** in contempt of a permanent injunction prohibiting her unauthorized practice of law. The office filed a contempt motion in Wake County Superior Court. Carter delivered to the State Bar a notice purporting to remove the contempt motion to the Federal District Court for the Eastern District of North Carolina under the Americans with Disabilities Act. Carter has not filed a notice of removal.

In July 2013, the office was authorized to seek injunctive relief against **Nathan Curry**. Curry is a former school administrator in Durham who took a fee from a discharged teacher claiming he could help her appeal the discharge. Curry admitted his conduct but did not refund the fee he collected until the State Bar filed this action. The Wake County Superior Court entered a consent permanent injunction in July 2014.

In July 2013, the office was authorized to seek injunctive relief against disbarred lawyer **R. Lewis Ray**. Ray attempted to represent several plaintiffs who alleged that they were wrongfully detained by a store. The Wake County Superior Court entered a consent permanent injunction in May 2014.

In April 2014, the office was authorized to seek injunctive relief against **William Darden** of Wilson. Darden attempted to represent a party in a domestic case. Darden had been previously cautioned about other violations of the statutes. The Wake County Superior Court entered a consent preliminary injunction in November 2014.

In July 2014, the office was authorized to seek injunctive relief against **Mary Ella Hutchison** of Louisburg. The State Bar alleges that Hutchison regularly attends foreclosure hearings and provides advice to homeowners on how to defend foreclosure proceedings. The State Bar alleges that she also files documents with clerks of court on behalf of homeowners in an effort to stop foreclosures. The State Bar filed the complaint in Wake County. In December 2014, the court granted Hutchison's motion to change venue to Franklin County.

In October 2014, the office was authorized to seek an injunction against **Kenneth Moore**. The State Bar alleges that Moore operates a business named "Way More Post-Conviction Services" that offers to provide post-conviction services to criminal defendants. The office is preparing the complaint.

In October 2014, the office was authorized to seek an injunction against **Robert Jones**. The State Bar alleges that Jones operates a Wyoming business named "A Cheap and Fast Divorce" that offers to provide divorce pleadings. The office is preparing the complaint.

In October 2014, the office was authorized to seek an injunction against **Hassie Nowlin**. The State Bar alleges that Nowlin has filed court pleadings on behalf of others in numerous cases in the United States District Court for the Middle District of North Carolina. The office is preparing the complaint.

The office continues to work with the Consumer Protection Division of the North Carolina Attorney General's Office to prevent a number of debt adjusting and loan modification firms from offering the services of lawyers who are not licensed to practice law in North Carolina. The services of these lawyers constitute the unauthorized practice of law. With very limited exceptions, debt adjusting is illegal in North Carolina. The office and the Consumer Protection Division are also working to stop business entities that offer to prepare living trusts for senior citizens.

### **Trust Account Supervisory Program**

Fourteen lawyers are participating in the Trust Account Supervisory Program. In 2014, seven lawyers successfully completed the program. The trust account compliance counsel reviews random audits quarterly to identify and evaluate potential participants in the program.

### **Grievance Committee Actions**

During 2014, the State Bar opened 1,222 grievance files, compared with 1,205 files opened in 2013.

Also in 2014, the office reviewed 34 direct mail solicitation letters. All of the reviewed letters involved minor violations of advertising ethics rules and 27 were resolved without opening grievance files. The office opened grievances against seven lawyers. The office reviewed 10 direct mail solicitation letters in 2013.



All grievances received by the State Bar must be considered and acted upon by one or more members of the Grievance Committee. The committee considered a total of 1,291 grievances during 2014. Of those, 1,019 were dismissed. Seven files were dismissed and retained because the respondent lawyers had been disbarred. Three files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 80 percent of the grievances considered by the committee. In addition to the grievances that were dismissed outright in 2014, 12 files were dismissed with letters of caution and 56 were dismissed with letters of warning.

In 2014, the Grievance Committee issued admonitions in 33 files, reprimands in 23 files and censures in five files. One hundred-fifteen files involving 47 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 176 grievances resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately fourteen percent of the grievances considered by the committee in 2014. The committee referred three lawyers to the Lawyers' Assistance Program and nine lawyers to the Trust Account Supervisory Program. At the end of 2014, one file had been continued for further investigation.

### **Cases Before the Disciplinary Hearing Commission**

#### **1. Discipline and Disability Cases**

The DHC is the independent tribunal which hears lawyer discipline and disability cases. The 20-member commission hears cases involving alleged violations of the Rules of Professional Conduct, cases in which it is alleged that a lawyer is disabled, petitions from disbarred and suspended lawyers seeking reinstatement to the practice of law and show cause petitions alleging that a lawyer has violated a prior DHC order. Each case is heard by a panel of three consisting of two lawyers and one layperson.

During 2014, the Office of Counsel completed a total of 44 disciplinary, reinstatement, and show cause cases before the DHC, representing 85 files referred by the Grievance Committee. Of those, 22 were resolved by hearing or default judgment, 21 were resolved by consent, and one reinstatement petition was withdrawn by the defendant. In 2013, the office completed 58 such cases. Of those, 25 were resolved by trial and 31 were resolved by consent.

In 2014, the DHC entered nine orders of disbarment. In all nine cases, the lawyers misappropriated entrusted funds from a client, an estate, or from funds held in trust to pay taxes in real estate closings.

In 2014, the DHC imposed five active suspensions, 13 suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 8 suspensions entirely stayed upon the lawyer's compliance with various conditions. The office filed a show cause petition against one lawyer and a period of suspension was activated. The DHC censured two lawyers.



## 2. Reinstatement Cases

In 2014, the DHC denied two lawyers' petitions for reinstatement. The DHC reinstated three suspended lawyers. One lawyer withdrew his reinstatement petition.

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

#### 1. Tenders of Surrender of License

In 2014, four lawyers surrendered their law licenses to the State Bar Council and were disbarred. Three misappropriated entrusted funds. One admitted that he intentionally engaged in the unauthorized practice of law for at least two years after he was administratively suspended, obtained property under false pretenses by receiving fees for legal work he performed while suspended, and falsely represented his suspended status and/or his knowledge of his suspended status to the court, to other attorneys, to clients, and to third parties. Two lawyers surrendered their law licenses and were disbarred by the Council during 2013.

#### 2. Reinstatement Proceedings

The Council did not consider any reinstatement petitions in 2014.

### **Actions Before the Secretary**

The Secretary receives reinstatement petitions from lawyers whose licenses are suspended for disciplinary violations and enters reinstatement orders in uncontested cases. Contested cases are referred to the DHC for trial.

Four suspended lawyers filed reinstatement petitions with the Secretary in 2014. In 2014, the Secretary reinstated one lawyer. The office objected to three petitions. The DHC reinstated one lawyer. The remaining two petitions were pending before the DHC at the end of 2014. One defendant withdrew his petition for reinstatement.

### **Actions Before the State Trial Courts**

#### 1. Judicial Disbarments

In 2014, two lawyers were disbarred by the Wake County Superior Court. One lawyer misappropriated entrusted funds. One lawyer pled guilty to nine felony counts of second degree sexual exploitation of a minor. In 2013, seven lawyers surrendered their licenses to superior courts and were disbarred.

#### 2. Injunction Proceedings

During 2014, the Office of Counsel obtained injunctions prohibiting 26 lawyers from handling entrusted funds. In 2013, the office obtained 15 such injunctions.

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

In 2014, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 23 lawyers. Of that number, one lawyer was administratively suspended from the practice of law, one lawyer was disbarred for embezzling funds, two lawyers became disabled, two lawyers suffered physical conditions that made them unavailable to clients, and 17 lawyers had died. The State Bar filed 19 trustee petitions in 2013.

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

One lawyer was censured by the Rowan County Superior Court for unprofessional behavior and willful failure to comply with Rule 12 of the General Rules of Practice for the Superior and District Courts.

One lawyer was reprimanded by the Wake County Superior Court for making a false statement under oath to the court.

5. Miscellaneous

As usual, in 2014 the State Bar was a party to numerous actions in the State courts. The Office of Counsel represented the State Bar in many of these actions. In six cases, the State Bar is represented by the Attorney General.

At the end of 2014, the office had six pending cases in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

The office appeared in Wake County Superior Court to obtain permission to disburse funds from the trust accounts of four disbarred, deceased, or disabled lawyers.

In addition to the Authorized Practice cases described above, the State Bar was a party to the following cases in state trial courts during 2014:

**Christopher Livingston v. Carolin Bakewell, Margaret Cloutier, Carmen Bannon and the North Carolina State Bar (Wake County Superior Court).** Carolin Bakewell is a former State Bar employee. Margaret Cloutier and Carmen Bannon are current State Bar employees. Christopher Livingston was admonished by the DHC in 2008 for practicing law in other jurisdictions in which he was not admitted and for making disrespectful accusations about a federal district court judge. In January 2011, he filed this lawsuit seeking damages, injunctive relief, and attorney fees. The pleading asserts various theories of recovery but does not allege facts which would give rise to liability. The court allowed the defendants' motion to dismiss in December 2012. The Court of Appeals affirmed in February 2014. Livingston's time to seek further appellate review has expired. The Office of Counsel represented the defendants.

**Gary Gleason v. NC State Bar, et al. (Mecklenburg County Superior Court)** Gleason filed this complaint against multiple parties, including the State Bar, alleging that he was bullied and denied fair access to justice during his pursuit of criminal charges, damages, and professional discipline against his former domestic attorney. On the morning of the scheduled hearing on the State Bar's motion to dismiss, Gleason dismissed his complaint against all parties without prejudice. Gleason has until 23 June 2015 to re-file his lawsuit. The Office of Counsel represented the State Bar defendants.

**Christopher Harper v. Edward White, et al. (Durham County Superior Court)** Harper was a defendant in a DHC case. The DHC hearing began on May 22 and 23, was recessed, and was scheduled to conclude on September 25 and 26, 2014. On September 19, Harper had a civil summons issued along with an order extending time to file complaint in this action against State Bar investigator Edward White and 5 other witnesses identified in the DHC case. Harper alleged that the witnesses were going to lie at the DHC hearing. He obtained from Judge Orlando Hudson a temporary restraining order prohibiting the witnesses from testifying in the DHC case. The State Bar, on behalf of White, filed an interlocutory appeal and sought a stay of the TRO. The State Bar also filed a motion to be allowed to intervene on the petition for a stay with the Court of Appeals. The Court of Appeals allowed the motion to intervene and stayed the TRO until it determined the appeal on the merits. Thereafter, the witnesses testified in the DHC case, rendering the appeal of the TRO moot. The DHC announced its decision to disbar Harper on September 26 and entered the disbarment order on November 19. Harper's appeal of that Order is pending. On October 9, Harper filed a complaint in this action seeking actual and punitive damages and attorneys fees for alleged false testimony by the witnesses and alleged tortious interference with his law practice. He has not served the complaint on White. The State Bar's motion to dismiss is pending. The Office of Counsel represents White.

**David C. Sutton v. NC State Bar, Ronald G. Baker, Sr., the Disciplinary Hearing Commission and Steven D. Michael (Wake County Superior Court).** Sutton was a defendant in a DHC case. He filed this lawsuit in Wake County Superior Court seeking to enjoin the conclusion of the DHC case, seeking a declaratory judgment that the State Bar is unconstitutional, and seeking alleged damages. He sought relief for purported violations of the North Carolina Constitution. The court denied Sutton's motion for temporary restraining order. The DHC hearing concluded on October 22 and 23, 2014. The court allowed the State Bar's motion to dismiss on October 29, 2014. Sutton filed notice of appeal. The Office of Counsel represents the State Bar defendants. The Attorney General represents the DHC defendants.

**LegalZoom, Inc. v. NC State Bar (Wake County Superior Court).** In October 2013, LegalZoom filed this lawsuit in Wake County Superior Court alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 in responding to LegalZoom's fifth public records request. LegalZoom alleged that the State Bar produced too few and too many documents in response to its second, third and fourth public records requests. It sought an order compelling the State Bar to respond differently and an award of attorney fees. Mediation commenced on February 10, 2014 but was recessed. The Attorney General represents the State Bar.

**World Law South, Inc. v. NC State Bar (Wake County Superior Court).** In October 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 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 2014. 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 has again responded. The Attorney General represents the State Bar.

**Vicks and Vicks v. North Carolina State Bar (NC Office of Administrative Hearings).** Plaintiffs alleged they were harmed by the Grievance Committee’s dismissal of two grievances Mrs. Vicks filed against the Vicks’ former lawyer. The OAH dismissed the claim for lack of subject matter jurisdiction. The petitioners have not sought further review. The Attorney General represented the State Bar.

**Amy Allred v. Inga Kear (Forsyth County Superior Court).** Allred, a Winston-Salem attorney, sued Inga Kear, a Winston-Salem attorney and volunteer on the 21<sup>st</sup> Judicial District Bar’s Fee Dispute Program. Allred alleged that Kear’s report to the Bar about Allred’s conduct was defamatory. The Office of Counsel undertook to represent Kear but before it could make an appearance Allred voluntarily dismissed the complaint without prejudice. Allred has until 15 October 2015 to re-file her lawsuit.

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

The office represented the State Bar in 14 appellate cases in 2014.

The Client Security Fund obtained summary judgment in a subrogation case against former Jacksonville lawyer **N. Jerome Willingham**. Willingham appealed. Willingham filed his record on appeal late with a motion to extend the time for filing. The motion was denied and his appeal was dismissed.

The DHC suspended Greensboro lawyer **Jeffrey Berman** for one year. The DHC found that Berman did not disclose material facts to the court in a case involving custody of an abused child and made false representations on applications for renewal of his mediator certification. Berman appealed. The Court of Appeals affirmed the order of discipline. The automatic stay of the suspension dissolved when the Court of Appeals issued its mandate. Berman petitioned the Supreme Court for discretionary review and *supersedeas*. The Supreme Court entered a temporary stay. On August 19, 2014, the Supreme Court denied his petition for discretionary review and dissolved the temporary stay.

The DHC found that Raleigh lawyer **Geoffrey Simmons** misappropriated entrusted funds and disbarred him. Simmons appealed. The Court of Appeals and the Supreme Court denied his petitions for stay. In May 2014, the Court of Appeals affirmed the order of discipline. In December 2014, the Supreme Court denied Simmons' petition for discretionary review.

The DHC suspended Kitty Hawk lawyer **Dan Merrell** for two years and stayed the suspension for two years on compliance with enumerated conditions. Merrell represented a land developer who was involved in self-dealing to the detriment of investors. The DHC found that Merrell mishandled the investors' funds and had a conflict of interest. Merrell appealed. His brief is due on January 28.

In 2010, the DHC suspended **Willie Gilbert** of Wilson for five years and stayed the suspension for five years. In March 2014, the DHC lifted the stay, concluding that Gilbert violated the conditions of the stay by failing to pay his membership dues, failing to submit semi-annual trust account reports from a CPA, making false representations to the Johnston County Superior Court, and being held in contempt by that court. Gilbert appealed and has filed his brief. The State Bar's brief was filed January 20.

In January, 2014, the DHC suspended Hickory lawyer **Robert W. Adams** for four years. The DHC found that Adams mismanaged his trust account. After serving two years active, Adams may apply for a stay of the balance. Adams appealed. The Court of Appeals denied his petition for a writ of *supersedeas*. The briefs have been filed. We await a decision.

In April, 2014, the DHC censured Greensboro lawyer **Robert Lee Scott**. The DHC found that Scott did not timely obtain a title insurance policy, pay a title insurance premium, pay property taxes, and communicate with his client. Scott appealed. The briefs have been filed. We await a decision.

On May, 2014, the DHC disbarred **Kia Narissa Scott** of Concord. The DHC found that Scott committed a criminal act, embezzlement. Scott appealed. She has not made arrangements to obtain a transcript and has not served a proposed record on appeal. Counsel will file a motion to dismiss after the expiration of all deadlines.

In June 2014, the DHC suspended Wilmington lawyer **William Batchelor** for three years for mismanaging his trust account. After serving one year active, he may petition for a stay of the balance. Batchelor appealed. The Court of Appeals denied his petition for writ of *supersedeas*. Batchelor has filed his brief. The State Bar's brief was filed January 20.

In April, 2014, the DHC disbarred **William Britt** of Lumberton. The DHC found that Britt misappropriated client funds. Britt appealed. Britt has filed his brief. The State Bar's brief is due February 2.

In November 2014, the DHC disbarred Durham lawyer **Christopher G. Harper**. The DHC found that Harper misappropriated entrusted client funds. Harper appealed.

In November 2014, the DHC suspended Greenville lawyer **David C. Sutton**. The DHC found, among other things, that he had engaged in disruptive behavior toward the court, opposing counsel, and clients on numerous occasions. Sutton appealed. The Court of Appeals denied Sutton's petition for writ of *supersedeas* on December 22, 2014.

Before the conclusion of the DHC case, **David C. Sutton** filed a petition for writ of prohibition asking the North Carolina Court of Appeals to prevent the continuation and completion of the DHC hearing. The Court of Appeals denied the petition.

In July 2012, the office filed a civil action in Wake County Superior Court against **Grover and Patricia Jones**, who operated a West Virginia business that claimed to assist inmates on habeas corpus petitions and other legal matters. The office obtained a permanent injunction in October 2013. The Joneses' appeal was dismissed in April 2014.

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

**North Carolina State Board of Dental Examiners v. Federal Trade Commission (US Court of Appeals for the Fourth Circuit).** On May 31, 2013, the Fourth Circuit held that the North Carolina Dental Board and its individual members are not entitled to state action immunity in actions under the Sherman Antitrust Act because their actions are not supervised by other state officials. The State Bar filed a brief as *amicus curiae* urging the court to grant the Dental Board's request for rehearing or for rehearing *en banc*. The Fourth Circuit denied that petition. The State Bar and a number of other state bars filed an *amicus* brief in support of the Dental Board's petition to the United States Supreme Court for writ of *certiorari*. The Attorney General of North Carolina joined the attorneys general of nine other states to file an *amicus* brief in support of the petition. On March 3, the Supreme Court granted the petition for *certiorari*. The State Bar filed its *amicus* brief, along with the Board of Law Examiners and three other state bars, in May. The attorneys general of twenty-three states, including North Carolina, filed an *amicus* brief. The Supreme Court held oral argument on October 14. The State Bar is represented by Robinson, Bradshaw and Hinson.

**Alan Pitts et al v. HUD, et al (US District Court, EDNC).** Jennifer Porter (a State Bar employee), State Bar President Ron Baker, and "responsible members of North Carolina Bar Association" are among numerous named defendants in a *pro se* lawsuit filed by Pitts and his wife. Summons was issued for Porter but was never served. No summons was issued for Baker or "responsible members of North Carolina Bar Association." The complaint alleges that in 1997 the plaintiffs did not receive title to all of the property they thought they were buying at a foreclosure sale due to a mistake in the property description. The complaint does not allege that Porter, Baker or the State Bar played any role in those events. The complaint appears to confuse the Bar Association with the State Bar. The court allowed the served defendants' motion to dismiss. The Court of Appeals affirmed. Plaintiff has no further appeals. The Office of Counsel represents the State Bar defendants but has made no appearance because none of those it represents has been served with process.



**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. The Office of Counsel represents the State Bar defendants.

**David C. Sutton v. NC State Bar, et al (US District Court, EDNC).** Sutton was a defendant in a DHC case. While that case was pending, Sutton filed a complaint in federal court seeking to enjoin the State Bar and the DHC from proceeding with the DHC hearing. He also sought damages from the State Bar, the DHC, employees of the State Bar and members of the DHC. The federal court denied Sutton’s *ex parte* motion for a TRO and motion for expedited hearing on his motion for preliminary injunction. On September 12, the court allowed the State Bar’s motion to dismiss. The Office of Counsel represented the State Bar.

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

**COUNCIL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Rosiland T. Grant	14 BCS 1	01/24/2014
Donald F. Lively	14 BCS 2	07/25/2014
Freddie Lane, Jr.	14 BCS 3	10/24/2014
L. Pendleton Hayes	14 BCS 4	10/24/2014

**JUDICIAL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Mark Kevin Seifert	14CV001359	02/03/2014
Richard Z. Polidi	14CV009738	07/22/2014

**JUDICIAL DISCIPLINE**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
David Kirkbride	12CVS14344	Reprimand
Tiffany Dawn Russell	14R254	Censure



## TRANSFERS TO DISABILITY INACTIVE STATUS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Transfer</u>
Thomas H. Clements	13G0208, 13G0209 13G0210, 13G0211 13G0212, 13G0496 13G0618, 13G0619	01/15/2014 (by Grievance Committee Chair)
Reid G. Brown	11G0401, 11G0569	03/05/2014 (by Grievance Committee Chair)
James M. Gaither, Jr.	13G0679	03/10/2014 (by Grievance Committee Chair)
Stephen L. Snyder	14 D 1	03/27/2014 (by Grievance Committee Chair)
Mark L. Waple	14 D 2	04/11/2014 (by Grievance Committee Chair)
Kevin L. Byrd	13G0894	10/09/2014 (by Grievance Committee Chair)

## BEFORE THE DISCIPLINARY HEARING COMMISSION

### Completed Discipline & Disability Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
William S. Britt	13 DHC 13	Disbarred (hearing)
Kia Narissa Scott	13 DHC 21	Disbarred (hearing)
Sue E. Mako	13 DHC 33	Disbarred (default)
Christopher V. Vaughan	13 DHC 12	Disbarred (consent)
Lena Watts-Robinson	14 DHC 22	Disbarred (hearing)
Sybil H. Barrett	13 DHC 28	Disbarred (default/hearing)
Scott B. Spransy	14 DHC 21	Disbarred (default/hearing)
Christopher G. Harper	13 DHC 29	Disbarred (hearing)
Ertle Knox Chavis	14 DHC 28	Disbarred (hearing)
Roydera D. Hackworth	14 DHC 3	5 year suspension (consent)
Christopher H. Rahilly	14 DHC 4	5 year suspension (hearing)

**Completed Discipline & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Charles Mark Feagan	14 DHC 23	5 year suspension (hearing)
John W. Roebuck	14 DHC 1	4 year suspension (consent)
Jeffrey S. Berman	12 DHC 31	1 year suspension (hearing)
David C. Sutton	13 DHC 11	5 year suspension; possible stay after 3 years (hearing)
Robert W. Adams	13 DHC 17	4 year suspension; possible stay after 2 years (hearing)
Elaine S. Kelley	14 DHC 6	4 year suspension; possible stay after 2 years (consent)
George Rexford Gore	14 DHC 5	4 year suspension; possible stay after 2 years (consent)
William T. Batchelor	13 DHC 25	3 year suspension; possible stay after 1 year (hearing)
Julia Leigh Sitton	14 DHC 17	3 year suspension; possible stay after 1 year (consent)
Lori M. Glenn	14 DHC 11	3 year suspension; possible stay after 1 year (hearing)
Mary Susan Phillips	14 DHC 13	3 year suspension; possible stay after 9 months (consent)
Robert E. Griffin	13 DHC 20	3 year suspension; possible stay after 6 months (consent)
Allan C. De Laine	13 DHC 27	2 year suspension; possible stay after 1 year (consent)
Steven M. Cheuvront	13 DHC 30	2 year suspension; possible stay after 1 year (hearing)
William R. Shilling	13 DHC 24	2 year suspension; possible stay after 1 year (consent)

**Completed Discipline & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Paul L. Whitfield	14 DHC 24	2 year suspension; possible stay after 6 months (consent)
Ronna Dawn Gibbs	14 DHC 10	3 year suspension; stayed 3 years (consent)
Gregory A. Bullard	13 DHC 26	2 year suspension; stayed 5 years (consent)
Michael H. Griffin	14 DHC 2	2 year suspension; stayed 3 years (consent)
Lynne Hicks	14 DHC 19	2 year suspension; stayed 3 years (consent)
Conan Lee Schwilm	14 DHC 27	2 year suspension; stayed 2 years (consent)
Jerry Braswell	14 DHC 14	2 year suspension; stayed 2 years (hearing)
A. Wayland Cooke & H. Davis North, III	14 DHC 32	1 year suspension; stayed 1 year (consent)
Robert L. Scott	13 DHC 3	Censure (hearing)
Bobby D. Mills	14 DHC 26	Censure (hearing)

**Completed Show Cause Hearings**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Willie D. Gilbert	03 DHC 16	3 year suspension activated (hearing)

**Completed Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Gary S. Lawrence	12 DHC 2 & 13 BSR 2	reinstated by DHC (hearing)
Ronna Dawn Gibbs	05 D 0002 & 14 RD 1	reinstated by DHC (consent)
Kenneth P. Andresen	12 DHC 17	reinstated by DHC (consent)
Dujuan E. Brown	12 DHC 27 & 14 BSR 1	reinstated by Secretary (consent)
Ralph T. Bryant	07 DHC 26 & 14 BCR 1	reinstatement denied (hearing)

Douglas T. Simons	05 BCS 3 & 13 BCR 2	reinstatement denied (hearing)
Porter Staples	10 DHC 25 & 14 BSR 3	petition withdrawn

### **Pending Discipline & Disability Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Bradley R. Lamb	07 DHC 28	stayed
Tracey Cline	12 DHC 22	not scheduled
Robert Melville, Jr.	13 DHC 9	stayed
Jennifer Foster	14 DHC 7	02/27/2015
Wallace Respass	14 DHC 8	reschedule
Keith Henry	14 DHC 9	02/13/2015
David Lloyd	14 DHC 15	01/16/2015
Clinton Light	14 DHC 16	03/12-13/2015
Andrew Patterson	14 DHC 18	02/19-20/2015
Paul Jackson	14 DHC 20	reschedule
Clark Wittstruck	14 DHC 29 & 14 DHC 33	02/23/2015
David Kirkbride	14 DHC 30	04/23-24/2015
James Thompson	14 DHC 31	02/26-27/2015
Reid C. James	14 DHC 34	not scheduled
Meleisa Rush Lane	15 DHC 1	not scheduled

### **Pending Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Douglas Simons	05 BCS 3 & 13 BCR 2	01/23/2015 Council Mtg.
Ralph Bryant	05 BCS 3 & 14 BCR 1	01/23/2015 Council Mtg.
Robert Brown	08 DHC 8 & 14 BSR 4	01/30/2015
Gary Kivett	11 DHC 15 & 14 BSR 2	03/13/2015

### **Pending Show Cause Hearings**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Laura G. Johnson	11 DHC 18	02/20/2015

## **BEFORE THE STATE TRIAL COURTS**

### **Trustees Appointed in 2014**

<u>Lawyer</u>	<u>Reason Trustee Sought</u>
Robert R. Hayes	Deceased
Dallas M. Pounds	Deceased
Benjamin R. Gilliatt	Disabled
John C. Sterritt	Deceased
Martin L. Nesbitt, Jr.	Deceased
L. Pendleton Hayes	Embezzlement/Disbarred

Janine I. Van Dyke	Deceased
Harold L. Waters	Declining Health
Dow Spaulding	Deceased
William H. Lewis, Jr.	Deceased
J. Hunter Stovall	Deceased
Lee E. Britt	Declining Health
Beverly D. Basden	Deceased
R. Lewis Alexander, Jr.	Deceased
John A. Richardson, III	Deceased
Charles Oswald	Deceased
Martha E. Fox	Deceased
Robert D. Davidson, Jr.	Deceased
Franklin Smith	Deceased
Henry M. Fisher	Deceased
Elesha M Smith	Disabled
Charles J. Alexander, II	Deceased
Hugh F. McManus, IV	Administratively Suspended

#### **TROs and Preliminary Injunctions Obtained in 2014**

<u>Lawyer</u>	<u>Date of Injunction</u>
Richard Z. Polidi	01/02/2014
Matthew J. Ragaller	01/16/2014
Lena Watts-Robinson	01/16/2014
Meleisa Rush-Lane	03/06/2014
Mary Alexander Reed	03/11/2014
L. Pendleton Hayes	03/25/2014
Thomas S. Hicks	03/26/2014
Freddie Lane, Jr.	04/15/2014
Darryl G. Smith	04/21/2014
William R. Sage	04/24/2014
Robert Gray Austin, III	05/14/2014
Leah Austin Abbey	05/14/2014
Keith C. Booker	05/19/2014
Robert A. Bell	06/27/2014
Sir-Christopher J. Anderson	07/17/2014
Jane Soboleski	07/30/2014
Sean D. Soboleski	07/30/2014
Thomas F. Foster	08/05/2014
Jonathan S. McElroy	08/05/2014
Jeffrey D. Smith	08/05/2014
Garey Balance	08/13/2014
Tiffany L. Ashhurst	09/18/2014
William Issac Diggs	10/09/2014
Clinton O. Light	12/03/2014
L.J. Blackwood, II	12/09/2014
Michael H. Griffin	12/12/2014

## **BEFORE THE GRIEVANCE COMMITTEE**

### **Totals for 2014**

Total Grievance Files Opened – 1,222

Total Files Considered by Committee – 1,291

Dismissals – 1,019

Files Dismissed & Retained – 7

Files Abated – 3

Files Dismissed with Letters of Caution – 12

Files Dismissed with Letters of Warning – 56

Files issued Admonitions – 33

Files issued Reprimands – 23

Files issued Censures – 5

Files issued Reciprocal Discipline – 0

Files referred to DHC – 113

### **Grievance Totals for January 2014\***

- 232 files were dismissed
  - 1 file was dismissed and retained
  - 1 file was abated
  - 2 files were continued
  - 0 lawyers were referred to the Lawyers Assistance Program
  - 0 lawyers were referred to the Trust Account Supervisory Program
  - 5 lawyers received letters of caution
  - 11 lawyers received letters of warning
  - 7 lawyers received admonitions
  - 6 lawyers received reprimands
  - 1 lawyer received a censure
  - 11 lawyers were referred to the Disciplinary Hearing Commission

*\*January 2014 totals include files dismissed in the 4<sup>th</sup> quarter of 2013 that are not included in the 2013 numbers listed.*

### **Grievance Totals for April 2014**

- 306 files were dismissed
- 2 files were dismissed and retained
- 0 files were abated
- 1 file was continued
- 1 lawyer was referred to the Lawyers Assistance Program
- 3 lawyers were referred to the Trust Account Supervisory Program
- 1 lawyer received a letter of caution
- 12 lawyers received letters of warning
- 11 lawyers received admonitions
- 7 lawyers received reprimands
- 0 lawyers received censures
- 13 lawyers were referred to the Disciplinary Hearing Commission

### **Grievance Totals for July 2014**

- 254 files were dismissed
- 4 files were dismissed and retained
- 2 files were abated
- 0 files were continued
- 1 file was denied reconsideration
- 1 lawyer was referred to the Lawyers Assistance Program
- 6 lawyers were referred to the Trust Accounting Supervisory Program
- 4 lawyers received letters of caution
- 16 lawyers received letters of warning
- 8 lawyers received admonitions
- 5 lawyers received reprimands
- 2 lawyers received censures
- 5 lawyers were referred to the Disciplinary Hearing Commission

### **Grievance Totals for October 2014**

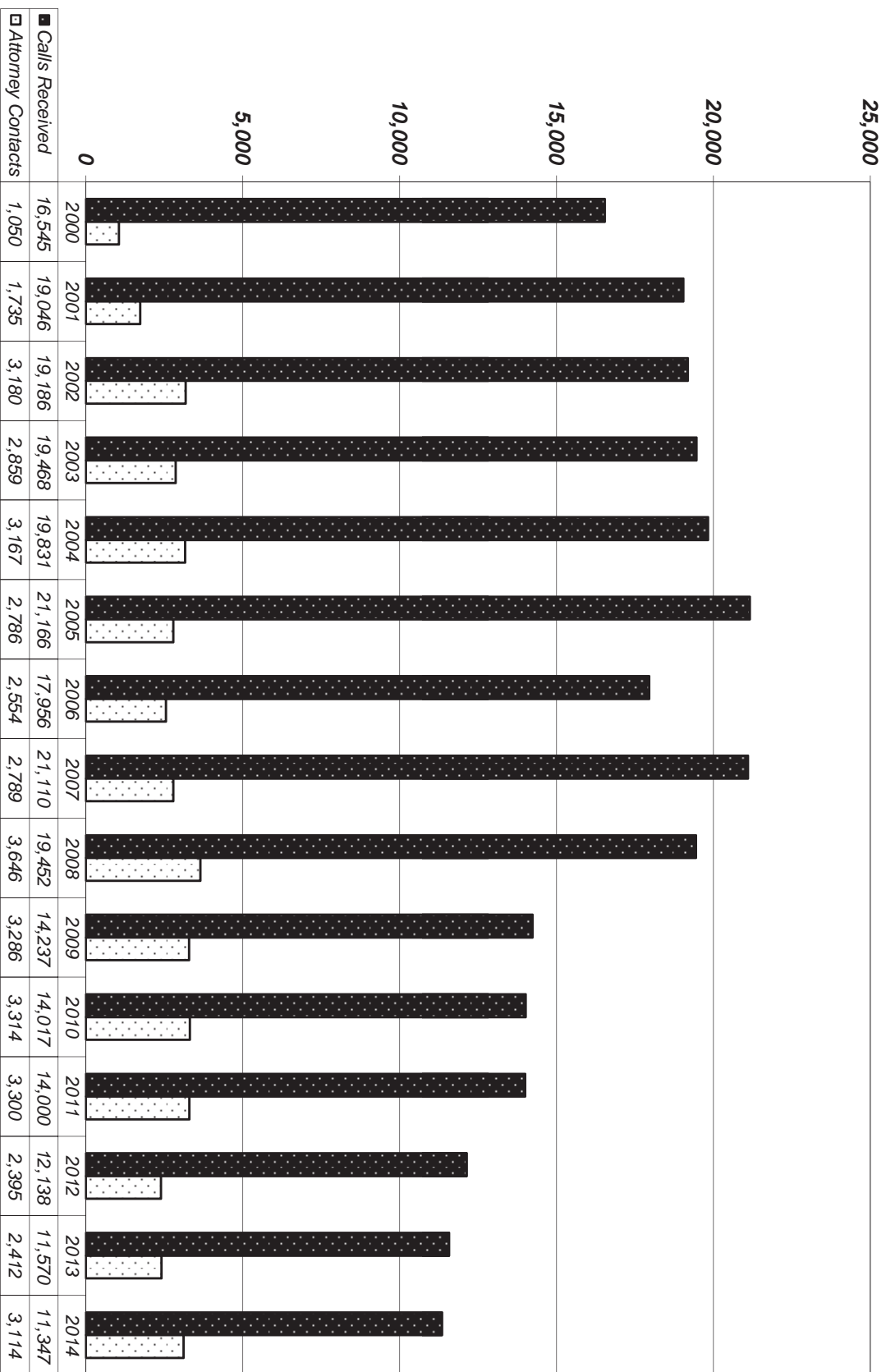
- 222 files were dismissed
- 0 files were dismissed and retained
- 0 files were abated
- 0 files were continued
- 3 lawyers were referred to the Lawyers Assistance Program
- 0 lawyers were referred to the Trust Account Supervisory Program
- 1 lawyer received a letter of caution
- 16 lawyers received letters of warning
- 6 lawyers received admonitions
- 5 lawyers received reprimands
- 2 lawyers received censures
- 15 lawyers were referred to the Disciplinary Hearing Commission



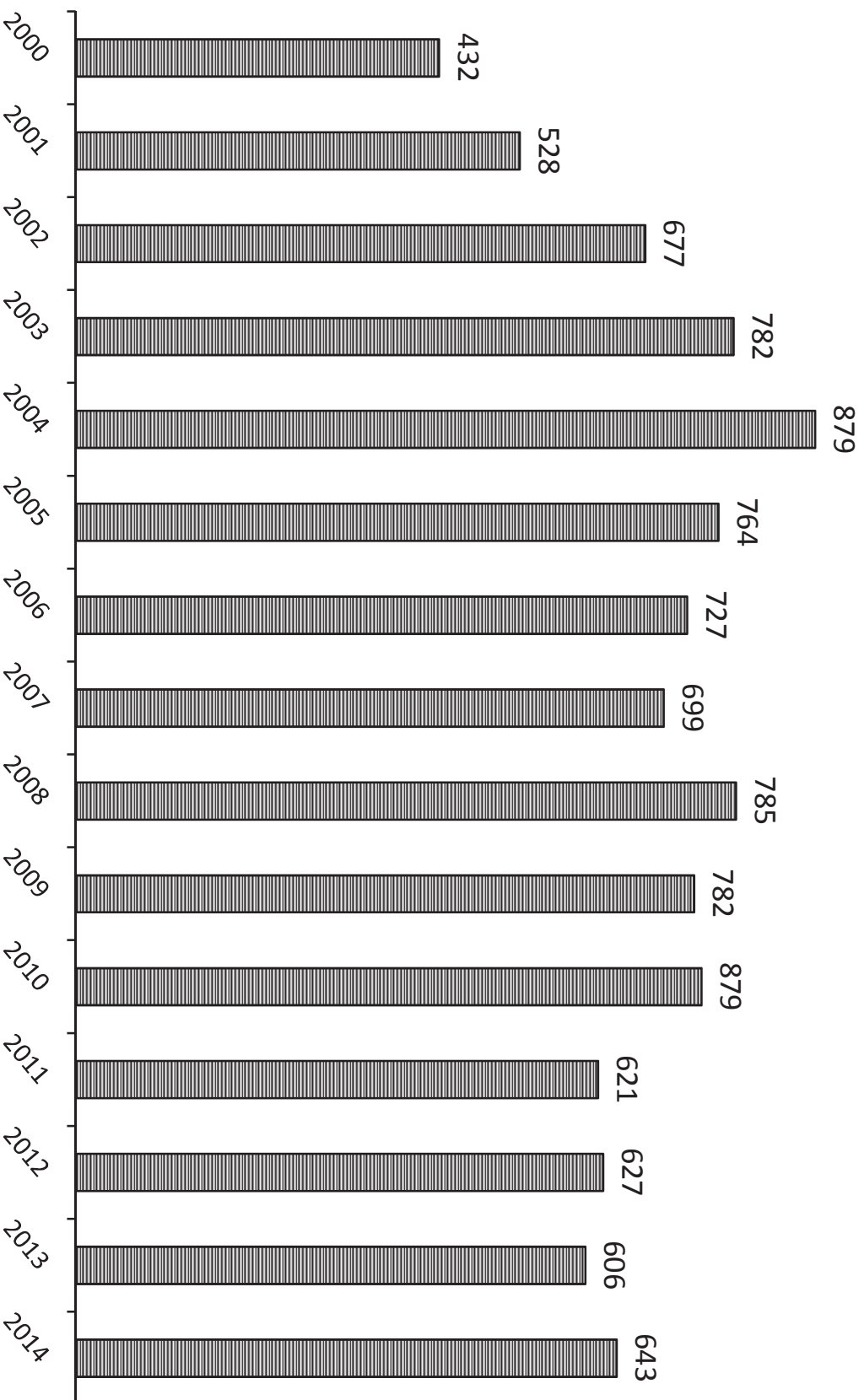
# ATTORNEY CLIENT ASSISTANCE PROGRAM

## Calls Received and Attorney Contacts

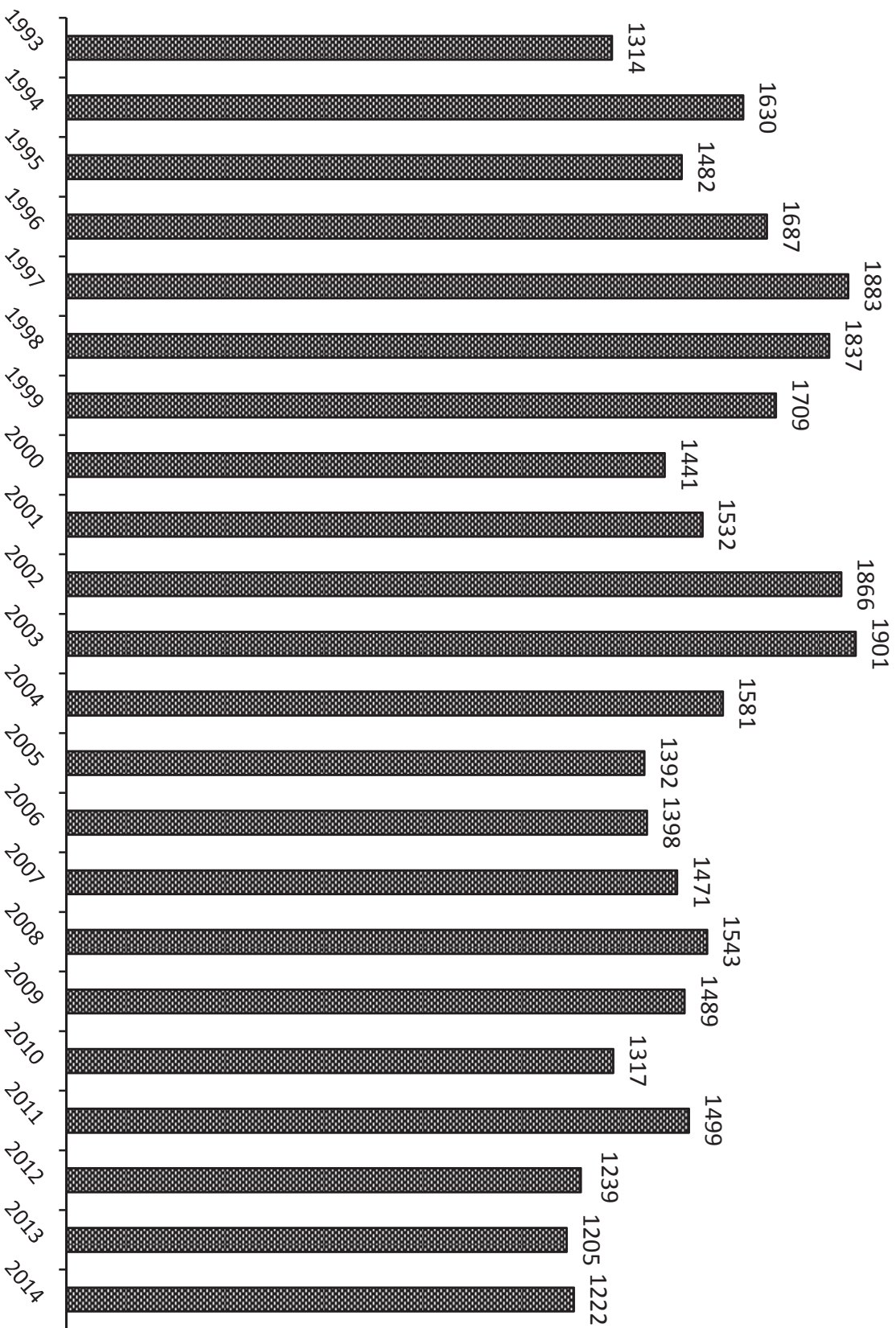
(January - December)



# Fee Dispute Resolution Petitions Filed



## Grievances Filed Annually



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

