

**REPORT OF THE OFFICE OF COUNSEL  
TO THE N.C. STATE BAR COUNCIL  
APRIL 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. Since January 1, 418 grievance files have been opened.

**ATTORNEY CLIENT ASSISTANCE PROGRAM**

The ACAP staff responded to 2,963 phone calls from members of the public and contacted 814 lawyers in an effort to resolve concerns expressed by clients. Staff also responded to 311 emails and 451 letters from inmates.

There were 129 requests for fee dispute resolution filed during the quarter. Ninety-five files were assigned to the two State Bar facilitators. The remaining 34 files were sent to district bar committees.

**CASES COMPLETED SINCE JANUARY 2016 MEETING**

**Completed Discipline Cases in the DHC**

**Cassandra Stubbs – 15 DHC 8**

Stubbs, of Durham, filed a motion for reconsideration of the DHC's order granting summary judgment in favor of the State Bar. The DHC allowed the motion for reconsideration, entered an order granting summary judgment in favor of Stubbs, and dismissed the complaint.

**Thomas Hicks – 15 DHC 16**

The DHC concluded that Hicks, of Wilmington, mismanaged his trust account, neglected a client, and misappropriated interest earned on fiduciary funds. The DHC suspended Hicks for five years. After serving eighteen months of the suspension, Hicks will be eligible to apply for a stay of the balance upon showing compliance with numerous conditions.

**Christine Mumma – 15 DHC 20**

The DHC concluded that Mumma, of Durham, used methods of obtaining evidence that violated the rights of a third person. The DHC admonished Mumma.

**Christine Mumma – 15 DHC 24**

It was alleged that Mumma, of Durham, engaged in misconduct in email communications with the Executive Director of the North Carolina Innocence Inquiry Commission. The DHC dismissed the complaint.

**Wade H. Leonard, Jr. – 15 DHC 40**

The DHC concluded 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. The DHC suspended Leonard for two years. The suspension is stayed for two years upon his compliance with numerous conditions.

**Bridgette D. Johnson – 15 DHC 42**

The DHC concluded that Johnson, of Greensboro, mismanaged entrusted funds, did not maintain client ledgers and comply with other trust account recordkeeping requirements, and did not respond to the State Bar's request for records. She was suspended by the DHC for three years. The suspension is stayed for three years upon her compliance with numerous conditions.

**Katherine Heath Pekman 15 DHC 41**

The DHC concluded 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. The DHC suspended Pekman for one year. The suspension is stayed for three years upon her compliance with numerous conditions.

**Robert E. Griffin – 15 DHC 44**

The DHC concluded that Griffin, of Fuquay-Varina, made a false statement to the State Bar, did not timely respond to a fee dispute, did not communicate with a client, disclosed confidential client information, and did not timely refund fees. Griffin was suspended in 1989 and in 2014 and was reprimanded in 2005. The DHC disbarred him.

**Devin Ferree Thomas – 15 DHC 45**

The DHC concluded 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. He was disbarred.

**Nathan M.J. Workman – 15 DHC 49**

The DHC concluded that Workman, of Indian Trail, committed trust account violations and did not comply with two orders to appear and show cause why he should not be held in contempt. The DHC suspended Workman for one year. The suspension is stayed for one year upon his compliance with numerous conditions.

**Kevin P. Byrnes – 15 DHC 50**

The DHC concluded that Byrnes, of Charlotte, engaged in gross trust account mismanagement and failed to file or pay income taxes for seven years. The DHC suspended him for five years. After serving two years of the suspension, Byrnes will be eligible to petition for a stay of the balance upon showing compliance with numerous conditions.

**Michelle Hickerson – 15 DHC 51**

The DHC concluded that Hickerson, of Chapel Hill, gave false testimony in a deposition and made false representations in a pleading filed with the court. The DHC suspended her for five years. After serving one year of the suspension, Hickerson may petition for a stay of the balance upon showing compliance with numerous conditions.

**Hugh McManus – 16 DHC 12**

It was alleged that McManus, of Wilmington, misappropriated entrusted client funds and abandoned his law practice. McManus did not file an answer to the complaint. The DHC disbarred him in a default order of discipline.

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

**Alfred P. Carlton, Jr.** of Raleigh was reprimanded by the Wake County Superior Court. The Court found that Carlton received ten payments that exceeded the amounts he had billed for work performed for his client and placed these payments in his operating account. The excess money paid by the client remained “entrusted property” and should have been placed in his firm’s trust account until earned.

**Tiffany L. Ashhurst** of Durham surrendered her law license to the Wake County Superior Court and was disbarred. Ashhurst admitted that she did not communicate with clients, did not act with reasonable diligence and promptness in her representation of clients, did not properly maintain entrusted funds, engaged in dishonest conduct and misappropriated entrusted client funds.

**Brad Harrison Ferguson** of Sylva was transferred to disability inactive status by the Haywood County Superior Court.

**Orders of Reciprocal Discipline**

The chair of the Grievance Committee reprimanded **Christopher J. Seufert** of Franklin, New Hampshire by order of reciprocal discipline. The Professional Conduct Committee of the New Hampshire Supreme Court reprimanded Seufert on September 30, 2015 for failing to competently represent his clients’ interests in their bankruptcy case and for failing to act with reasonable diligence and promptness in advancing their interests.

The chair of the Grievance Committee suspended **JoAnne Dennison** of Chicago, Illinois by order of reciprocal discipline. On September 21, 2015, the Supreme Court of Illinois suspended Denison for three years and until further order of the Court. The Court concluded that Denison posted statements to a public blog in which she accused judges and attorneys of being corrupt and accepting bribes without providing any factual basis. Denison will only be allowed to petition for reinstatement of her North Carolina law license after her license to practice law in Illinois is reinstated.

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

**Judith C. Fraser** of Asheville was transferred to disability inactive status by the Chair of the Grievance Committee.

**James I. Averitt**, a Raleigh attorney, contended in his answer to the complaint in 16 DHC 4 that he is disabled. On March 29, the hearing panel transferred Averitt to disability inactive status pending a disability hearing currently scheduled to occur June 24.

**Brad Harrison Ferguson** of Sylva was transferred to disability inactive status by the Haywood County Superior Court.

### **Interim Suspensions**

The chair of the DHC imposed an interim suspension of the law license of **Joseph Lee Levinson** of Benson. Levinson pled guilty to the felony offense of conspiracy to obtain money in the custody of a bank by false pretenses.

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

#### **Janet P. Reed – 09 DHC 13 & 16 BSR 1**

On September 22, 2010, the DHC suspended Jacksonville lawyer Janet Reed for five years. The panel found that Reed engaged in plea negotiations with an assistant district attorney but did not disclose the existence of an additional criminal charge against her client and added this charge to the plea agreement form for dismissal without notifying the prosecutor or obtaining his consent. The panel found that, in an unrelated case, Reed filed a motion containing false factual allegations. She was reinstated by the Secretary on February 22, 2016.

#### **Stephen L. Snyder – 14D1 & 15RD1**

Snyder was transferred to disability inactive status in March 2014 as a result of severe vertigo. The DHC entered a consent order returning Snyder to active status in February 2016.

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

#### **Dawn Johnson Warren – 12 DHC 14 and 15 BSR 12**

On September 20, 2012, the DHC suspended Dawn Johnson Warren of Mebane for three years for numerous violations including violations of Rule 8.4(c). The DHC entered a consent order of reinstatement in February 2016.

#### **William Wallace Respass, Jr. – 14 DHC 8 & 14 DHC 8R**

In July 2015, the DHC concluded that Respass, of Lenoir, had sex with a client, loaned money to a client, and testified falsely in a deposition. The DHC suspended Respass for two years. After serving six months of the suspension, Respass was eligible to petition for a stay of the balance. In February 2016, the DHC granted Respass' petition for stay under specified conditions.

### **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 **Paul N. Blake, III** of Wilson, **Carson W. Freeman** of Charlotte, **Matthew Carl Cox** of Jacksonville, and **Tracy Chapell Curtner** of Raleigh from handling entrusted funds.

### **Surrenders to the Council**

**Karla Simon**, of California and/or Connecticut, was convicted of felony stalking and multiple counts of misdemeanor harassment and violation of protective order in Massachusetts. Simon has tendered her surrender affidavit which will be presented to the Council at the April meeting.

**Jack B. Styles** of Raleigh has tendered his affidavit of surrender of law license, admitting that he misappropriated fiduciary funds totaling at least \$84,542.50. His affidavit of surrender will be presented to the Council at the April meeting.

### **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 delayed awaiting a ruling in Foster's federal court lawsuit against the magistrate and others, which was dismissed on March 9, 2016. Hearing is scheduled for July 8.

#### **Jerry Tillett – 15 DHC 7**

It is alleged that Judge Tillett of Manteo 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 is scheduled for June 28-30.

**Christopher W. Livingston – 15 DHC 15**

It is alleged that Livingston, of White Oak, 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 May 17-18.

**William Brown – 15 DHC 28**

Brown, of Fayetteville, was convicted of failing to file a federal income tax return. He was recently released from incarceration resulting from this conviction. He is currently serving two active disciplinary suspensions imposed in prior cases by the DHC. Service of the complaint is pending. 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 clients, did not maintain proper trust account records, and did not respond to the Grievance Committee. He is enjoined from handling entrusted funds. Hearing is scheduled for May 12-13.

**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 May 25.

**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 was continued from March and has not been rescheduled.

**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.

**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 trust account reconciliation records, did not respond to the State Bar, made statements with no substantial purpose other than to embarrass a third person, engaged in undignified or discourteous conduct degrading to a tribunal, and engaged in conduct prejudicial to the administration of justice. The hearing panel found probable cause to believe Anderson is disabled and stayed the disciplinary proceeding pending resolution of the disability issue, currently scheduled for June 27.

**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, did not maintain accurate client ledgers and did not comply with other trust account recordkeeping requirements, overdisbursed client funds, and misappropriated entrusted funds. They are enjoined from handling entrusted funds. Hearing is scheduled for June 30 - July 1.

**Marlon Messer – 15 DHC 53**

It is alleged that Messer, of Altadena, California, aided a California business in the unauthorized practice of law and debt adjusting in multiple states. Hearing must be rescheduled.

**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, which is a felony in that state. Hearing is scheduled for April 29.

**Dawn E. Ely – 16 DHC 1**

It is alleged that Ely of Atlanta held herself out in online 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. After extensive efforts, Ely was finally served. 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 was scheduled for April 14-15, but has been continued upon motion of Allred who is seeking to retain counsel.

**Kelly Calloway – 16 DHC 3**

It is alleged that Calloway, of Hendersonville, did not file and pay state taxes in 2009 and did not file tax returns or pay federal withholding and unemployment taxes for 6 years. Hearing is scheduled for April 27.

**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 eight tickets to the Masters Golf tournament, and sold the fictitious tickets on Craig's List. Hearing was scheduled for June 24, but when Averitt raised disability in his answer, the panel stayed the disciplinary proceeding and scheduled a hearing on his disability claim for June 24. Averitt has been transferred to disability inactive status.

**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 is scheduled for April 29.

**Michael McEnery – 16 DHC 6**

It is alleged that McEnery, a Raleigh attorney, while in rehabilitation for heroin addiction, broke into his friend’s house and stole and pawned his friend’s musical equipment to obtain money to buy drugs. Hearing is scheduled for June 3.

**Lamar Gudger – 16 DHC 7**

It is alleged that Gudger, of Asheville, shared a legal fee with a non-lawyer, did not act with reasonable diligence and promptness when representing a client, did not maintain proper trust account records, did not properly manage and maintain entrusted client funds, and embezzled entrusted funds. It is alleged in the alternative that Gudger suffers from a disabling mental or physical condition. Gudger is enjoined from handling entrusted funds. Hearing is scheduled for June 23.

**Lisa Dukelow – 16 DHC 8**

Dukelow, of Durham, allegedly neglected several clients and failed to respond to the State Bar. Hearing is set for July 14-15.

**Michael Crowe – 16 DHC 9**

It is alleged that in two criminal cases, Crowe, of Winston Salem, subpoenaed State’s witnesses to be deposed in his office without notifying opposing counsel. It is also alleged that he engaged in a conflict of interest and dishonest conduct in an unrelated matter. Hearing is scheduled for June 16-17.

**Keith Booker – 16 DHC 10**

It is alleged that Booker, of China Grove, neglected multiple clients, misappropriated entrusted funds, and did not maintain proper trust account records. Booker is enjoined from handling entrusted funds. Hearing is scheduled for June 2-3.

**Joseph Lee Levinson - 16 DHC 11**

Levinson, of Benson, pled guilty to the felony offense of conspiracy to obtain money in the custody of a bank by false pretenses. He is on interim suspension. Hearing has not been scheduled.

**Sandra Kullman – 16 DHC 13**

It is alleged that Kullmann, of Charlotte, commingled personal funds with entrusted funds, did not maintain client ledgers, did not reconcile her trust account, and did not properly maintain and disburse entrusted funds. Hearing is scheduled for June 20.

**Thomas Tate – 16 DHC 14**

It is alleged that Tate, of Apex, did not provide information about the rate or basis of his fee to a new client, was not diligent in his representation and did not communicate with the client, did not return the client’s file, and made a false representation to the client about the file. Hearing has not been scheduled.

**William I. Diggs – 16 DHC 15**

Diggs, of Myrtle Beach, South Carolina, allegedly misappropriated entrusted funds. He is enjoined from handling entrusted funds. 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 pending uncontested petitions for reinstatement.

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

**Richard S. Poe – 10CVS11027 & 16BCR1**

Poe, from Charlotte, was disbarred by the Wake County Superior Court on June 30, 2010. Poe admitted that he forged endorsements on checks payable to his law firm employer and misappropriated the fees. His petition for reinstatement is scheduled for hearing April 28, 2016.

**Michael L. Yopp – 02BCS4 & 16BCR2**

Yopp surrendered his license to the Council and was disbarred on July 19, 2002. Yopp admitted that he misappropriated the entrusted funds of multiple clients. His petition for reinstatement is scheduled for hearing May 20, 2016.

**TRUST ACCOUNTING COMPLIANCE PROGRAM**

Twenty-eight lawyers have successfully completed the TACP program since its inception. Peter currently supervises 16 participants in the program. He continues to review random audits to evaluate potential candidates for the program.

**AUTHORIZED PRACTICE**

The Authorized Practice Committee opened 25 new files this quarter. The committee will address 32 files at its April meeting.

Prepaid legal services plan annual registration forms were sent out last quarter pursuant to 27 N.C.A.C. §1E .0307. All but one plan – 14PP01 – 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 a vote of the Authorized Practice Committee, the Secretary of the State Bar issued plan 14PP01 a show cause order, giving the plan the opportunity to show why

their registration should not be revoked; staff counsel's efforts to serve this show cause order on the plan owner are ongoing.

Two plans – 02PP11 and 03PP13 – submitted proposed amendments this quarter. Staff counsel did not accept the proposed amendments for registration because they were not consistent with 27 N.C.A.C. §1E .0306.

Staff counsel investigated one complaint against a registered plan this quarter. It was resolved without any formal action by the Committee. Staff counsel is currently working with two attorneys to correct erroneous plan certification forms. Staff counsel is working on a Bar Journal article that will serve as a “prepaid legal services plan primer” to assist attorneys in working with and participating in prepaid legal services plans.

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.

**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 (NC Business 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 Business 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. The defendants do not seek monetary damages.

**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 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. WLS appears to have abandoned this lawsuit and no further proceedings are likely. WLS has filed notice of its dissolution with the North Carolina Secretary of State and has represented to the Wake County Superior Court that it has ceased all operations.

**NC State Bar v. Diane Carter (Wake County Superior Court).** The State Bar obtained an injunction against Carter for attempting to represent others in lawsuits against a homeowners association. The Office of Counsel filed a motion to hold Carter in contempt of the injunction. On December 31, 2014, the office received from Carter a notice that she was removing the contempt motion to federal court under the Americans with Disabilities Act, which does not apply to the contempt action. A hearing on that motion is scheduled for the week of May 23, 2016.

**NC State Bar v. Kenneth Moore (Wake County Superior Court).** The State Bar commenced this action seeking to enjoin the unauthorized practice of law by Moore's business enterprise "Way More Post-Conviction Services," which offers post-conviction services to criminal defendants.

The Executive Committee has authorized the Office of Counsel to file a lawsuit seeking injunctive relief against **Mortgage Information Services**, an Ohio business which allegedly attempts to close residential loans.

The Executive Committee has authorized the Office of Counsel to file a lawsuit seeking injunctive relief against **South Mountain Group**, a real estate company run by a Maryland lawyer alleged to be engaged in the corporate practice of law by hiring lawyers to prepare deeds and handle other aspects of residential real estate closings.

#### **OTHER OUTSIDE LITIGATION**

**Michael J. Anderson v. The North Carolina State Bar, et al. (Wake County Superior Court).** Anderson, a defendant in a pending disability proceeding before the DHC, filed this action against the State Bar, Governor McCrory, the NC Department of Justice, the NC Industrial Commission, and a local chiropractor. Anderson claims the defendants are engaged in a conspiracy to prevent jobs from coming to North Carolina and to damage his reputation. The State Bar's motion to dismiss is pending. The Office of Counsel represents the State Bar.

**Loushanda Myers v. Krista Bennett, Fern Gunn Simeon, John Silverstein and unnamed "unknown agents of the North Carolina State Bar" et al (US District Court, EDNC).** 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. In 2015, Myers filed an amended complaint which no longer names State Bar representatives as defendants but alleges that State Bar representatives failed in an alleged duty to her and remain "material" to her complaint. After the court entered judgment dismissing all claims against all defendants with prejudice, Myers again gave notice of appeal. The Office of Counsel represents the State Bar defendants.

**Christopher Harper v. The North Carolina State Bar (Industrial Commission, State Tort Claim Action).** Harper was disbarred by the DHC in November 2014 and his appeal was dismissed because he did not timely file the record on appeal. The DHC denied his Rule 60 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. Harper appealed the deputy commissioner's order to the full Commission. He has not yet filed his brief. The Attorney General represents the State Bar.

**Christopher Harper v. The North Carolina State Bar (Durham County Superior Court).** After the deputy commissioner dismissed the purported tort claim described above, Harper filed this lawsuit in Durham County Superior Court. Harper again alleges that the witnesses in the DHC case, including a State Bar employee, committed perjury and that several State Bar employees assisted in the alleged perjury, manufactured evidence, and solicited and advised the Client Security Fund to pay a fraudulent claim. Harper purports to assert claims under N.C.G.S. § 14-221.1 *et. seq* (altering, destroying, or stealing evidence of criminal conduct); 42 U.S.C. § 1983; 18 U.S.C. §§ 1505 (obstruction of proceedings under the Antitrust Civil Process Act), 1512 (witness tampering), 1621 (perjury), 1961 (federal RICO) and 401 (power of federal court to punish); N.C.G.S. §§75D (state RICO statute); for an order for five State Bar employees to show cause why we shouldn't be disciplined for violation of Rule of Professional Conduct 8.4; for an order declaring his disbarment void *ab initio*; for an injunction preventing the State Bar from denying his privilege to practice law; for an injunction preventing the State Bar obtaining subrogation for CSF payments; for an Attorney General review of all of his allegations; and for Rule 11 sanctions totaling \$6,000,000 to compensate him for damages to his reputation. The State Bar's motion to dismiss is scheduled for hearing May 11, 2016. The Office of Counsel represents the State Bar.

**Capitol Broadcasting Company, Inc. v. Disciplinary Hearing Commission (Wake County Superior Court).** WRAL-TV filed this lawsuit against the DHC on January 12, 2016, 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 but the case is still pending. The Attorney General represents the DHC.

**Eugene Boyce v. The North Carolina State Bar (Wake County Superior Court).** Boyce is a Raleigh lawyer. He alleges that he filed a grievance with the State Bar in 2000, 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 indicates 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 be referred elsewhere, and for an award of costs. The State Bar's motion to dismiss is scheduled for hearing May 6. Parker Poe represents the State Bar.

**World Law South, Inc. v. NC State Bar (Wake County Superior Court).** On October 14, 2013, WLS filed a complaint alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 because it allegedly did not respond “as promptly as possible” to a public records request served on the State Bar on September 18, 2013 by the lawyer who represents LegalZoom and represented some of the defendants in the World Law Group case. After a March 2014 mediation, WLS withdrew the purported pending public records request and stated that it absolved the State Bar of the obligation to respond to it. WLS has dissolved as a corporate entity and appears to have abandoned this lawsuit. The Attorney General represents the State Bar.

**Jerry R. Tillett v. NCSB and the North Carolina Judicial Standards Commission (Dare County Superior Court).** Jerry Tillett is 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. Tillett appealed the decision to the Court of Appeals. Tillett’s brief is due May 6, 2016. The State Bar’s motion to dismiss the appeal is pending. Van Laningham Duncan represents the State Bar in the trial court. Van Laningham Duncan and the Office of Counsel represent the State Bar on appeal.

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

There are 25 claims on the agenda for the Board’s April 21 meeting.

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

### **Disbursement Cases**

One disbursement motion was filed in Superior Court during the quarter. Several disbursement motions are ready for hearing. The State Bar continues to disburse funds received from prior orders.

### **Trusteeships**

Trustees were appointed to wind down the practices of deceased lawyers **Richard Charles Forman** of Greensboro, **David W. Norville** of Monroe, **Thomas Billy Rallings** of Charlotte, and **Jan Stephen Gray** of Salisbury, and to wind down the practices of **Linda S. Klein** of Charlotte and **Sharon Rose Britt** of Rocky Mount, who are currently unavailable to clients.

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

**NCSB v. Tillett (15 DHC 7).** Tillett gave notice of appeal from two interlocutory orders. Both of those appeals have been dismissed. First, the Court of Appeals dismissed Tillett's interlocutory appeal of the order denying his motion to dismiss the DHC complaint pending against him. The Supreme Court also denied Tillett's petition for discretionary review seeking to bypass the Court of Appeals in that first appeal. Second, the Court of Appeals granted Tillett's motion to dismiss his appeal from the order denying his motion for judgment on the pleadings.

### Pending Appeals

**NCSB v. David Sutton (13 DHC 11).** In November 2014, the DHC suspended Greenville lawyer **David Sutton** for five years. The DHC found, among other things, that Sutton routinely engaged in disruptive and abusive conduct toward the court, opposing counsel, and clients. Sutton appealed. The Court of Appeals denied his petition for writ of *supersedeas*. Oral argument is scheduled for April 25, 2016.

**Jerry R. Tillett v. NCSB and the North Carolina Judicial Standards Commission (Dare County Superior Court).** In addition to the pending DHC proceeding, Tillett also filed a separate lawsuit in Dare County Superior Court seeking to enjoin the DHC proceedings. Tillett appealed the trial court's order denying his motion for preliminary injunction. Tillett has filed his record on appeal. The State Bar's motion to dismiss the appeal is pending.

**NCSB v. Christopher Harper (13 DHC 29).** In November 2014, the DHC disbarred Harper. In December 2015, the DHC denied Harper's post-trial motions for a new hearing and to vacate the order of disbarment. Harper filed notice of appeal from that ruling. To date, Harper has done nothing to perfect his appeal. Unless he takes timely action, the State Bar will move to dismiss the appeal.

**NCSB v. Christopher Livingston (15 DHC 15).** On February 11, 2016, Livingston filed notice of appeal from decisions announced by the DHC, but not yet reduced to writing, granting a protective order, denying a motion to compel discovery and quashing a subpoena.

**NCSB v. Meleisa Rush-Lane (15 DHC 1).** On December 29, 2015, the DHC entered an order disbaring Rush-Lane. Among other things, the DHC found that Rush-Lane misappropriated entrusted funds and willfully failed to timely file tax returns for more than ten years. She withdrew her appeal on April 15.

## PERSONNEL

Two rising third-year students – **Abby Moua**, from North Carolina Central, and **Tara Regimand**, from Campbell – will be joining the Office of Counsel for an eight week internship this summer and will attend the July Council meeting in Blowing Rock.

## MISCELLANEOUS

Leonor continues to serve on the NCBA Minorities in the Profession committee and on the 10<sup>th</sup> Judicial District/Wake County Bar Association Professionalism Committee, where she is co-chair of the Publications Subcommittee. Leonor presented a CLE for the 26<sup>th</sup> Judicial District Bar in February.

Josh continues to teach Humanities at Wake Tech Community College. He also teaches legal research and writing at Campbell Law and regularly presents at the NCBA's Professionalism for New Attorneys programs and other CLEs.

Carmen continues to serve as the Office of Counsel's liaison to the judiciary and as Vice-Chair of the Wake County Bar Association's Professionalism Committee. In the last quarter, Carmen presented at a CLE for the NCBA Litigation Section and two CLEs for the Wake County Bar Association.

Jennifer served as attorney judge 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 10<sup>th</sup> 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 January, Brian spoke at Mel Wright's Professional Responsibility class at UNC. In April, Brian presented a CLE sponsored by the Wake County Young Lawyer Division on the ethical considerations when opening a law practice. Brian also supervises the Office of Counsel's internship program and has arranged for two rising third-year students to join the Office of Counsel this summer.

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 and conducts webinars on trust accounting. 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 a State Bar Twitter account to notify members of trust account scams that come to the State Bar's attention. Peter was recently appointed as the State Bar's first Legislative Liaison to the North Carolina General Assembly.

Pat has been attending the NCCALJ's Investigation and Adjudication Committee meetings.

Katherine continues to serve on the NCBA Professionalism Committee. She made a CLE presentation in Wilmington this quarter.