

The North Carolina State Bar  
Office of Counsel

**2012**  
**Annual**  
**Report**

## ***OFFICE OF COUNSEL STAFF***

### **LAWYERS**

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Margaret T. Cloutier, Sr. Deputy Counsel	Ext. 239
A. Root Edmonson, Deputy Counsel	Ext. 229
Fern Gunn Simeon, Deputy Counsel	Ext. 258
David R. Johnson, Deputy Counsel	Ext. 230
Jennifer A. Porter, Deputy Counsel	Ext. 262
Nichole P. McLaughlin, Deputy Counsel	Ext. 238
Carmen Hoyme Bannon, Deputy Counsel	Ext. 283
Brian P.D. Oten, Deputy Counsel	Ext. 226
Leonor Bailey Hodge, Deputy Counsel	Ext. 299
Barry M. McNeill, Deputy Counsel	Ext. 298
Mary D. Winstead, Deputy Counsel	Ext. 204
G. Patrick Murphy, Deputy Counsel	Ext. 206
Alyssa M. Chen, Deputy Counsel	Ext. 293
Peter Bolac, Trust Account Compliance Counsel	Ext. 282

### **INVESTIGATORS**

Joe Commisso, Director of Investigations	Ext. 200
Roger Allen, Investigator	Ext. 265
Eddie Capel, Investigator	Ext. 294
Ed White, Investigator	Ext. 263
Scott Perry, Investigator	Ext. 259
Fred Patton, Investigator	Ext. 266
George Muench, Investigator	Ext. 284
Whit Ruark, Investigator	
Wayne Truax, Investigator	Ext. 292
Randy Ross, Investigator, Client Security Fund	Ext. 201
Tim Batchelor, Auditor	Ext. 224

### **ADMINISTRATIVE STAFF**

Heather Pattle, Administrator	Ext. 227
Sonya Sells, Paralegal	Ext. 277
Becky Carroll, Paralegal	Ext. 234
Wondella Payne, Paralegal	Ext. 296
Melanie Kincaid, Paralegal	Ext. 233
Anneleise Hayes, Paralegal	Ext. 280
Lori Reams, Administrative Assistant	Ext. 232
Joshua Hoffman, Administrative Assistant	Ext. 295
Dawn Whaley, Administrative Assistant	Ext. 278
Chris Woods, Investigative Clerk	Ext. 222
Sonja Puryear, Investigative Assistant	Ext. 203

*ATTORNEY/CLIENT ASSISTANCE PROGRAM STAFF*

Luella Crane, Director & Certified Mediator	Ext. 251
Krista Bathurst, Mediator	Ext. 228
Sandra Saxton, Public Liaison	Ext. 264
Judy Treadwell, Public Liaison	Ext. 260
Diane Melching, Administrative Assistant	Ext. 287

***OFFICE OF COUNSEL***

The Office of Counsel is the legal department of the North Carolina State Bar. The office consists of disciplinary staff, the 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 against 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, pursues subrogation actions for recovery of funds paid by the CSF, and disburses funds from the trust accounts of deceased, disabled and disbarred lawyers. It coordinates appointment of trustees to wind down the practices of deceased, disbarred or disabled lawyers. 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 fifteen lawyers, one administrator, five paralegals, one investigative clerk, five administrative assistants, ten 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, 208 Fayetteville Street, 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 on pages two and three of this report.

**2012 ANNUAL REPORT  
OFFICE OF COUNSEL  
THE NORTH CAROLINA STATE BAR**

**Attorney Client Assistance Program**

The Attorney Client Assistance Program (“ACAP”) consists of five staff members; two public liaisons, two fee dispute resolution facilitators, one of which is a certified mediator, and one administrative assistant. During 2012 the staff responded to 12,138 calls from clients and other members of the public, compared to 14,000 calls the previous year. ACAP staff contacted 2,395 lawyers. Additionally, ACAP staff responded to 2,350 letters from inmates and 583 email messages from clients and lawyers.

The State Bar opened 627 fee dispute resolution files during 2012. Of those files, 166 were assigned to the five judicial district fee dispute resolution committees. The remaining 461 were assigned to the in-house facilitators. Twenty-nine requests for resolution of a disputed fee were filed with local fee dispute committees, addressed locally and monitored by the State Bar.

**Authorized Practice Committee**

The Authorized Practice Committee opened 87 files in 2012, compared to 103 files opened in 2011. The committee resolved 89 files during 2012.

The committee also registers prepaid legal service plans. Currently, 69 prepaid plans are registered with the office. The plans must file annual registrations, which the Office reviews to ensure compliance.

In May 2011, the office filed a civil action against an Illinois company, Lienguard, Inc. The complaint alleges that Lienguard prepared and offered to prepare mechanics and materialmen’s liens for filing in North Carolina. After negotiations failed, Lienguard filed an answer. Lienguard then retained counsel. The case was moved to the Business Court. Lienguard amended its answer and filed a counterclaim. The State Bar has replied. The Attorney General represents the State Bar.

In 2011, the office was authorized to seek an injunction against Craig McGannon. The office has been negotiating a consent order with McGannon.

In July 2012, the office filed a civil action for injunction against Grover and Patricia Jones, who operate a West Virginia business that claims to assist inmates on habeas corpus and other legal matters. The office is attempting to negotiate a consent order.

In May 2012, the office obtained a contempt order against Dennis Lockett for violating an injunction the office obtained in 2006. Lockett recently pled guilty to several federal crimes and is awaiting sentencing. The office will seek enforcement of the order, if necessary, after Lockett is sentenced.

In December 2012, the office filed a civil action for injunction against Sidney Harr. Harr has been filing motions and petitions in Durham County Superior Court on behalf of Crystal Mangum, a criminal defendant facing murder charges. The office will seek judgment on the pleadings.

In October 2012, the office was authorized to seek injunctions against two other defendants, World Law Group and Mortgage Information Services. The office was authorized to cooperate and coordinate with any potential actions the Attorney General might file. The complaints have not yet been filed.

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. 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 Compliance Program**

At the end of 2012, 21 lawyers are participating in the Trust Account Compliance Program. The trust account compliance counsel reviews random audits quarterly to identify and evaluate potential participants in the program.

### **Grievance Committee Actions**

During calendar year 2012, the State Bar opened 1,239 grievance files, compared with 1,499 files opened in 2011.

Also in 2012, the office reviewed 28 direct mail solicitation letters. Seven involved minor violations of advertising ethics rules. Eleven contained violations that resulted in grievance files. The office reviewed 17 direct mail solicitation letters in 2011.

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 1,375 grievances during 2012. Of those, 1,163 were dismissed. Eighteen files were dismissed and retained because the respondent lawyers had been disbarred. Fifteen files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 87 percent of the grievances considered by the committee. In addition to the grievances that were dismissed outright in 2012, 22 files were dismissed with letters of caution and 54 were dismissed with letters of warning.

In 2012, the Grievance Committee issued admonitions in 21 files, reprimands in 15 files and censures in 6 files. Eighty-three files, involving 51 lawyers, were referred for trial before the Disciplinary Hearing Commission (DHC). The Grievance Committee imposed reciprocal discipline on two lawyers. A total of 127 grievances resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately nine percent of the grievances considered by the committee in 2012. The Chair of the Grievance Committee also transferred two lawyers to disability inactive status. The committee referred one lawyer to the Lawyer's Assistance Program. At the end of 2012, three files had been continued for further investigation.

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

### 1. Disciplinary and Disability Cases

The DHC is the independent tribunal which hears lawyer disciplinary 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 2012, the Office of Counsel completed a total of 39 disciplinary, reinstatement and show cause cases before the DHC, representing 58 files referred by the Grievance Committee. Of those, 13 were resolved by trial or default judgment and 26 were resolved by consent. In 2011, the office completed 38 such cases. Of those, 21 were resolved by trial and 17 were resolved by consent.

In 2012, the DHC entered nine orders of disbarment. In five cases, the lawyers misappropriated funds from a client or law firm. One lawyer cashed counterfeit money orders. One lawyer continued to practice after being suspended in 2004 and 2006. One lawyer was found guilty of felony offenses including conspiracy to commit mail and wire fraud, mail fraud, conspiracy to commit money laundering and transactions in criminally derived property, aiding and abetting concealment of money laundering, aiding and abetting transactions in criminally derived property, and making false statements to federal agents. One lawyer committed acts of dishonesty by neglecting clients and failing to properly maintain and deliver entrusted funds in three different real estate closings.

In 2012, the DHC imposed four active suspensions, six suspensions in which the lawyer could seek a stay after serving some period of active suspension, and ten suspensions entirely stayed upon the lawyer's compliance with various conditions. Five lawyers had show cause proceedings brought against them. In four cases, a period of suspension was activated and in one case, the suspension was activated and then stayed for an additional three years. The DHC reprimanded one lawyer and transferred one lawyer to disability inactive status. One case was dismissed.

## 2. Reinstatement Cases

In 2012, the DHC denied the petition of one lawyer seeking reinstatement from disability inactive status. The DHC recommended that the Council reinstate one disbarred lawyer's petition for reinstatement. The Council will consider this petition at its January 2013 meeting.

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

#### 1. Tenders of Surrender of License

In 2012, two lawyers surrendered their law licenses to the State Bar Council and were disbarred. Both misappropriated entrusted funds. Three lawyers surrendered their law licenses and were disbarred by the Council during 2011.

#### 2. Reinstatement Proceedings

The Council did not consider any reinstatement petitions in 2012.

### **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.

Six suspended lawyers filed reinstatement petitions with the Secretary in 2012. The Secretary reinstated five lawyers. The office objected to one petition. That matter was heard on January 18, 2013 and has been recessed until February.

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

#### 1. Discipline and Disability Cases in the State Trial Courts

In 2012, six lawyers were disbarred by superior courts. Five lawyers were disbarred by the Wake County Superior Court. Three misappropriated entrusted funds, one pled guilty in federal court to one felony count of unlawful procurement of citizenship or naturalization under 18 U.S.C. §1425 by aiding and abetting his client in seeking U.S. citizenship under a false name, and one pled guilty to one felony count of altering documents, two felony counts of obstruction of justice and one felony count of conspiracy to obstruct justice. One lawyer was disbarred by the Lincoln County Superior Court for filing unfounded lawsuits and appeals without his ostensible clients' knowledge and for filing lawsuits in violation of a gatekeeper order. In 2011, seven lawyers surrendered their licenses to superior courts and were disbarred.

2. Injunction Proceedings

During 2012, the Office of Counsel obtained injunctions prohibiting 22 lawyers from handling entrusted funds. One injunction was later dissolved. The office obtained injunctions against 28 lawyers in 2011.

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

In 2012, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 18 lawyers. Of that number, one lawyer was disabled, one lawyer was sentenced to prison after pleading guilty to several felonies, and 16 lawyers had died. The State Bar filed 11 trustee petitions in 2011.

4. Miscellaneous

As usual, in 2012 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 three cases, the State Bar is represented by the North Carolina Attorney General.

At the end of 2012, the office had four 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 six disbarred, deceased or disabled lawyers.

The following are state trial court cases in which the State Bar was a party during 2012:

**LegalZoom.com, Inc. v. North Carolina State Bar (NC Business Court).** LegalZoom, a national online legal document preparation service, commenced this action against the State Bar on September 30, 2011. In 2008, the AP Committee sent LegalZoom a cease and desist letter advising it to 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 has not yet made a final decision about registering the purported plan. 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. On the State Bar's motion, and over LegalZoom's objection, the case has been designated by the Chief Justice and by the Chief Judge of the North Carolina Business Court as a Mandatory Complex Business Case under N.C. Gen. Stat. §7A-45.4. The court denied the State Bar's motion to dismiss pursuant to N.C. Gen. Stat. 1A-1, Rule 12(b)(6). The court also encouraged the State Bar to file a counterclaim seeking injunctive relief to prohibit LegalZoom engaging in the unauthorized practice of law. The State Bar did file such a counterclaim. On January 9, 2013, the State Bar filed its brief in

opposition to LegalZoom's motion for partial judgment on the pleadings, by which LegalZoom seeks a mandatory injunction compelling the State Bar to register its purported prepaid legal services plans. The State Bar's motion for judgment on the pleadings and supporting brief were filed January 17, 2013. The Attorney General represents the State Bar.

**North Carolina State Bar v. Lienguard, Inc. (NC Business Court).** At the October 2010 meeting, the Executive Committee authorized counsel to seek an injunction against Lienguard, Inc. Lienguard is an Illinois corporation that offers to prepare and file materialmen's liens in any jurisdiction. The State Bar filed this action after Lienguard refused to stop offering its services in North Carolina. On July 30, 2012, A.P. Carlton, who also represents LegalZoom, filed a notice of appearance and various motions, including a motion to amend Lienguard's answer. Lienguard's amended answer contains a counterclaim seeking a declaration that Lienguard is not engaged in the unauthorized practice of law, a declaration that the State Bar's enforcement action violates the anti-monopoly and equal protection clauses of the North Carolina Constitution, injunctive relief and attorney fees. Motions for judgment on the pleadings and supporting briefs are due January 25, 2013. This action was designated a Mandatory Complex Business Case under N.C. Gen. Stat. §7A-45.4 and moved to the NC Business Court. The Attorney General represents the State Bar.

**Loushanda Myers v. "North Carolina Bar" et al (NC Industrial Commission).** Myers asserts this action under the NC Tort Claims Act seeking damages she allegedly suffered because "the North Carolina Bar" dismissed a grievance against her former lawyer. She also sued various representatives of Johnston County government. Plaintiff's claims were all dismissed with prejudice by the deputy commissioner on October 17, 2012. Hearing on Myers' appeal to the Full Commission is scheduled for March 5, 2013. The State Bar is represented by the Attorney General.

**Neil Allran, Leslie Dale, and #1 in Freedom, LLC v. Roy Cooper, Walter Dalton, Anthony DiSanti, Keith Kapp, Ronald Baker, Ronald Gibson and Brian Oten, et al (Gaston County Superior Court).** These plaintiffs were represented by Hugh Johnston. The State Bar filed a DHC complaint seeking professional discipline against Johnston for filing outrageous and vexatious lawsuits on behalf of purported clients who did not authorize Johnston to represent them. Plaintiffs in this action seek a determination that the State Bar defendants violated their oaths of office and committed perjury by not enforcing the constitution's alleged mandate that all legal controversies must be determined through trial by jury. All defendants in this action are represented by the Attorney General. The defendants' motion to dismiss is pending. In a related action, the Gaston County Superior Court initiated disciplinary proceedings against Johnston and instructed the Office of Counsel to serve as special prosecutor. On December 12, 2013, the court entered an order disbaring Johnston. The Attorney General represents the State Bar defendants.

**Michael McGee v. North Carolina State Bar (Mecklenburg County Superior Court).** McGee also filed an action against the State Bar in Mecklenburg County Superior Court. He seeks a declaratory judgment that the DHC cannot impose conditions for reinstatement after suspension that could cause the suspension to exceed five years, seeks restoration of his law license without a showing that he has complied with reinstatement rules, and seeks to enjoin

the State Bar from enacting any rule or procedure that might ever have an adverse impact on him. The court dismissed this action on December 19, 2012. McGee has until January 22, 2013 to give notice of appeal. The Office of Counsel represented the State Bar.

**Christopher Livingston v. Carolin Bakewell, Margaret Cloutier, Carmen Bannon and the North Carolina State Bar (Wake County Superior Court).** 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 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 under any such theories. The case was dismissed on December 28, 2012. The Office of Counsel represented the State Bar defendants.

**Elizabeth Wolfenden v. State Bar et al (Wake County Superior Court).** Wolfenden was the defendant in a DHC action. Originally, the State Bar pled that Wolfenden was disabled and sought a psychiatric evaluation. In the alternative, the State Bar sought imposition of discipline for professional misconduct. After a psychiatrist opined that Wolfenden is not disabled, the State Bar dismissed its disability claim and proceeded with the disciplinary case. Wolfenden brought this action in Wake County Superior Court against the State Bar and several Orange County lawyers and judges. She alleged that the Orange County lawyers and judges conspired to make false reports to the State Bar of her erratic behavior, alleged disability and professional misconduct. She also alleged that the State Bar violated various of her rights by alleging that she is disabled. She sought to enjoin the DHC action, contending that any disciplinary proceedings should occur in Wake County Superior Court. However, the disciplinary hearing was concluded and Wolfenden was disbarred in July 2010, so the injunction claim was moot. Wolfenden also sought damages, interest, costs and attorney fees. The Attorney General's Office, which represented the State Bar, removed the case to federal court. The federal court found that Wolfenden's claims under § 1983 were deficient and remanded the remaining claims to Wake County Superior Court. The case was designated as exceptional and a judge from out of district was assigned to hear the defendants' motions to dismiss. The claims against the State Bar were dismissed because they are barred by sovereign immunity. In October 2011, the court entered an order dismissing the claims against the remaining defendants. Shortly thereafter, the parties learned that Wolfenden died just before the October 2011 hearing. The court entered an order allowing the public administrator of Wolfenden's estate an opportunity to be heard on those motions. When the public administrator did not ask to be heard, the court dismissed all remaining claims and the case concluded.

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

The office represented the State Bar in several appellate cases in 2012.

The DHC censured Charlotte lawyer **Pamela A. Hunter** for neglecting two clients. She appealed. On December 6, 2011, the Court of Appeals affirmed the DHC order in a published opinion. Hunter served a notice of appeal to the Supreme Court based on an alleged constitutional question. The Supreme Court dismissed the appeal on March 16, 2012.

In 2004, the DHC suspended former Charlotte lawyer **Michael McGee** for five years. At the end of five years, McGee's petition for reinstatement was denied because he failed to show compliance with the conditions for reinstatement. McGee filed something called Motion to Strike Portions of the Record and Restore Petitioner's Active Status, asserting that any conditions cannot extend a suspension beyond the 5 year statutory limit. His motion was denied and he appealed to the Court of Appeals. On December 6, 2011, the Court of Appeals affirmed the denial of his reinstatement in a published opinion. McGee petitioned the Supreme Court for discretionary review. The Court denied McGee's petition on March 16, 2012.

The DHC suspended Asheville lawyer **Porter Staples** for three years. Staples did not properly handle and account for funds mistakenly wired into his trust account. The Court of Appeals affirmed on February 21, 2012.

**Sybil Barrett** of Charlotte appealed a DHC order of disbarment. On March 20, 2012, the Court of Appeals reversed the DHC order on grounds of "substantive due process."

The DHC entered an order suspending Ahoskie lawyer **Perry W. Martin** for three years. The suspension is stayed for three years. Martin made inappropriate sexual comments and overtures to a client. Martin gave notice of appeal but did not perfect the appeal and eventually withdrew the appeal.

The DHC disbarred Statesville lawyer **Samuel H. Thomas III**. Thomas misappropriated fees collected for the benefit of his law firm employer. Thomas gave notice of appeal but did not perfect the appeal. The State Bar's motion to dismiss the appeal was granted.

**Edward Zotian** of Winston-Salem was suspended for five years in 2004. In 2006, the DHC found that Zotian practiced law during the 2004 suspension and suspended him for an additional five years, to commence at the end of the 2004 suspension. In 2012, the DHC disbarred Zotian for continuing to practice law during those suspensions. Zotian gave notice of appeal but did not perfect the appeal. The State Bar's motion to dismiss the appeal was granted.

The DHC suspended Raleigh lawyer **Robert Burford** for two years but stayed the suspension for five years. Burford appealed and the State Bar cross-appealed. The case was calendared without oral argument on November 28, 2012 but the Court has not yet issued an opinion. In the meantime, Burford has also given notice of appeal from the DHC's order revoking the stay of his suspension based upon Burford's failure to comply with the conditions of the stay.

The DHC suspended Concord lawyer **Benjamin Small** for two years. Small filed frivolous pleadings, even after he was sanctioned by the court for doing so. He also did not respond timely to the State Bar. Small's brief is due February 4, 2013.

## Actions Before the Federal Courts

**Donna Pilch v. Katherine Jean, Melissa Brumback and Fred Morelock (US District Court, EDNC).** Pilch sued each defendant individually and in their official capacities as, respectively, the counsel, a former member of the 10th Judicial District Grievance Committee, and the former Chair of that committee. Pilch filed a grievance, which was investigated by the 10th and ultimately dismissed by the Grievance Committee. In this action, Pilch alleged that the defendants did not fulfill their duty under the Preamble to the Rules of Professional Conduct to cultivate and advance the science of jurisprudence, promote reform in the law and in judicial procedure, facilitate the administration of justice, and uphold and elevate the standards of honor, integrity and courtesy in the legal profession. She alleged that she brought to the State Bar's attention her contention that hundreds of criminal defendants were trapped in the Wake County court system's improper procedures and that the State Bar defendants should have "informed the North Carolina State Bar's legislative liaison to take action and contact the North Carolina General Assembly." Morelock was also alleged to have erred in assigning Brumbeck to investigate this grievance because she is a contract lawyer and is therefore allegedly not familiar with criminal law. Pilch sought injunctive relief, damages and punitive damages. The court allowed the defendants' motion to dismiss. On January 15, 2013, the court denied Pilch's motion to "void" the judgment.

**Michael McGee v. North Carolina State Bar, et al (US District Court, EDNC).** In 2004, the DHC suspended McGee for 5 years for engaging in criminal conduct by defrauding the bankruptcy court in his personal bankruptcy filings. McGee sued the State Bar in 2005, in the federal district court for the EDNC, contending that the DHC "convicted" him of a criminal offense without due process. The court dismissed the 2005 action on abstention grounds. In this new action against the State Bar and its officers, filed in the same court, McGee asserts the same legal theory. The magistrate judge recommended that the federal district court judge allow the State Bar defendants' motion to dismiss. On November 30, 2012, the Court adopted the magistrate judge's recommendation and entered judgment for the State Bar and the other defendants. McGee has not appealed. The Office of Counsel represented 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).** Myers asserts that the State Bar defendants, the North Carolina court system and a host of representatives of Johnston County government violated her rights. She does not describe this alleged violation with particularity but it appears to arise out of the events underlying her tort claim described above. The State Bar defendants must file their responsive pleading by January 25, 2013. The Office of Counsel represents the State Bar defendants.

**Alan Pitts et al v. HUD, et al (US District Court, EDNC).** Counsel received information that Jennifer Porter, Ron Baker and "responsible members of North Carolina Bar Association" were identified as among numerous defendants in a *pro se* lawsuit filed by Pitts and his wife. Summons has been issued for Porter but not yet served. Summons has not been issued for Baker or "responsible members of North Carolina Bar Association." The lawsuit 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 appears to confuse the Bar Association with the State Bar. It is unclear what role the plaintiffs believe Porter, Baker or the State Bar played in these events. If any defendant is ever served, counsel has a motion to dismiss ready for filing.

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

**COUNCIL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Willis Harper, Jr.	12 BCS 1	01/27/2012
J. Neal Rodgers	12 BCS 2	04/27/2012

**JUDICIAL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Todd M. Peebles	11CVS014298	01/13/2012
John E. Tate, Jr.	11CVS17149	02/22/2012
Alexander L. Lapinski	12CV007096	05/21/2012
Sean Nelson Rogers Wells	12CVS01903	07/17/2012
James Crouch	12CVS015877	11/13/2012
Hugh Wolfe Johnston	12CVS00669	12/12/2012

**BEFORE THE GRIEVANCE COMMITTEE**

**RECIPROCAL DISCIPLINE**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
Russell Crump	11G1232	Disbarred
James I. Durodola	12G1016	2 Month Suspension

**TRANSFERS TO DISABILITY INACTIVE STATUS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Transfer</u>
Andrew Jason Brauer	11G0188 & 11G0486	05/09/2012
Robert Harrison Gourley	11G0030	06/04/2012

**BEFORE THE DISCIPLINARY HEARING COMMISSION**

**Completed Discipline & Disability Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Theophilus O. Stokes, III	10 DHC 37	Disbarred (consent)
Edward V. Zotian	11 DHC 7	Disbarred (trial)
Billy D. Friende	11 DHC 20	Disbarred (consent)
Benjamin J. Viloski	11 DHC 23	Disbarred (consent)
Creighton W. Sossomon	11 DHC 30	Disbarred (consent)
Robert L. Mebane	12 DHC 5	Disbarred (default)
Jodi A. Ernest	12 DHC 7	Disbarred (consent)
Bambi F. Walters	12 DHC 9	Disbarred (consent)
Linda A. Clark	12 DHC 11	Disbarred (trial)
Cameron M. Ferguson	11 DHC 27	5 year suspension (trial)
Michael F. Easley	10 DHC 43	2 year suspension (consent and hearing)
Benjamin Small	11 DHC 13	2 year suspension (trial)
M. Thomas Norwood, III	11 DHC 26	1 year suspension (consent)
Michael D. Lea	11 DHC 29	6 month suspension (consent)
Gary B. Kivett	11 DHC 15	4 year suspension; possible stay after 1 year (consent)
Roydera Hackworth	12 DHC 3	4 year suspension; possible stay after 1 year (consent)
Randolph E. Shelton, Jr.	11 DHC 25	3 year suspension; possible stay after 18 months (consent)
Gary S. Lawrence	12 DHC 2	3 year suspension; possible stay after 1 year (trial)
Dawn Johnson	12 DHC 14	3 year suspension; possible stay after 1 year (trial)

**Completed Discipline & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Dean H. Humphrey	11 DHC 19	1 year suspension; possible stay after 6 months (trial)
Dennis Sullivan, Jr.	12 DHC 1	3 year suspension; stayed 5 years (consent)
Steven E. Philo	11 DHC 6	3 year suspension; stayed 3 years (consent)
Mark Mangiarelli	12 DHC 23	3 year suspension; stayed 3 years (consent)
Robert J. Burford	11 DHC 3	2 year suspension; stayed 5 years (trial)
Valderia Brunson	12 DHC 18	2 year suspension; stayed 5 years (consent)
Louie Wilson, III	11 DHC 28	2 year suspension; stayed 2 years (consent)
Charles Oldham, III	12 DHC 8	2 year suspension; stayed 2 years (consent)
Steven McFarlane	12 DHC 28	2 year suspension; stayed 2 years (consent)
Susan McFarlane	12 DHC 29	1 year suspension; stayed 2 years (consent)
Janice Paul	12 DHC 33	1 year suspension; stayed 1 year (consent)
Robert R. Schoch	11 DHC 16	Reprimand (consent)
Albert M. Neal, Jr.	10 DHC 39	Disability Inactive (trial)
Gregory T. Riley	12 DHC 21	Dismissed (trial)

### Completed Show Cause Hearings

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Susan E. Hyatt	08 DHC 16	3 year suspension activated possible stay after 6 months
Robert J. Burford	11 DHC 3	2 year suspension activated
Mark L. Bibbs	09 DHC 5	1 year suspension activated possible stay after 3 months
Diedra Lynn Whitted	10 DHC 3	3 year suspension activated and then stayed for 3 years
Sharyl Mason-Watson	10 DHC 7	2 year suspension activated

### Completed Reinstatement Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
David S. Harless	05 DHC 4 & 11 RD 3	reinstatement denied
Leanne Quattrucci	11 DHC 12 & 12 BSR 1	reinstated by Secretary
Dean Humphrey	11 DHC 19 & 12 BSR 3	reinstated by Secretary
Johnny Gaskins	09 DHC 30 & 12 BSR 5	reinstated by Secretary
Tamla Scott	07 DHC 4 & 12 BSR 6	reinstated by Secretary
Michael Lea	11 DHC 29 & 12 BSR 7	reinstated by Secretary

### Pending Disciplinary & Disability Cases

<u>Lawyer</u>	<u>File No.</u>	<u>Trial Date</u>
Bradley R. Lamb	07 DHC 28	stayed
Gary Scarzafava	11 DHC 10	January 18, 2013
David Vesel	11 DHC 31	April 24-26, 2013
Reid James	12 DHC 4	February 22, 2013
Dan L. Merrill	12 DHC 13	March 20-22, 2013
Michael C. Park	12 DHC 15	reschedule
Kenneth Andresen	12 DHC 17	reschedule
Nicholas Stratas	12 DHC 19 & 12 D 1	reschedule
Marshall Dotson	12 DHC 20	April 5, 2013
Tracey Cline	12 DHC 22	stayed
Hugh Wolfe Johnston	12 DHC 24	stayed

**Pending Disciplinary & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Trial Date</u>
Steven DeCillis	12 DHC 25	reschedule
Sameka Bennerman	12 DHC 26	February 2, 2013
Carole P. Burley	12 DHC 27	reschedule
Tina Patrick-Broadway	12 DHC 30	reschedule
Jeffrey Berman	12 DHC 31	March 8, 2013
Alan Roughton	12 DHC 32	February 15, 2013
Jason Gold	12 DHC 34	February 15, 2013
Melissa Goldsmith	12 DHC 35	February 8, 2013
John Mauney	12 DHC 36	April 4-5, 2013
Dujuan Brown	12 DHC 37	March 1, 2013
Geoffrey Simmons	12 DHC 38	March 15, 2013
Wilbur L. Linton Jr.	12 DHC 39	March 22, 2013
Victor H. Morgan Jr.	12 DHC 40	April 5, 2013
Ashley E. Cannon	12 DHC 41	not scheduled
Curtis C. Osborne	13 DHC 1	not scheduled
William Brown	13 DHC 2	not scheduled
Robert L. Scott	13 DHC 3	not scheduled
William McKeny	13 DHC 4	not scheduled

**Pending Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Richard Hayes	12 BSR 4	January 18, 2013
Matthew A. Bromund	12 BCR 1	January 25, 2013
Edwin Peters	12 BCR 2	February 15, 2013

**Pending Show Cause Hearings**

<u>Lawyer</u>	<u>File No.</u>	<u>Trial Date</u>
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No show cause hearings are currently pending.

**BEFORE THE STATE TRIAL COURTS**  
**Trustees Appointed in 2012**

<u>Lawyer</u>	<u>Reason Trustee Sought</u>
Wesley Darrell Whitley	Deceased
Romallus Murphy	Deceased
Larry Leonard	Deceased
Malcolm Young	Deceased
Richard Rudisill	Deceased
Lewis Waddell, Jr.	Deceased
Steven Carlson	Deceased
Mathew Bates	Deceased
Kent Knox Lively, III	Deceased
Nancy Wooten	Deceased
Robert Gourley, Sr.	Disabled
Nancy Green	Deceased
William Wooten	Deceased
Robert Lee Watt	Deceased
Clawson Williams	Deceased
Rosbon Whedbee	Deceased
Eric Saunders	Deceased
James Crouch	Prison

**TROs and Preliminary Injunctions Obtained in 2012**

<u>Lawyer</u>	<u>Date of Injunction</u>
David A. Lloyd	01/11/2012
Sean Nelson Rogers Wells	02/20/2012
Stephen R. Melvin	03/07/2012
Randolph E. Shelton, Jr.	03/07/2012
Luther A. Douglas, III	03/20/2012
William T. McKeny	03/30/2012
Narissa Scott	04/04/2012
Geoffrey H. Simmons	04/19/2012
Reid C. James	05/08/2012
R. Dannette Underwood	05/14/2012
Christopher G. Harper	06/13/2012
Ertle K. Chavis	07/05/2012
Robert W. Adams	08/24/2012
Carl R. Wright	10/01/2012
Sue E. Mako	10/04/2012
Steve L. Combs	10/18/2012
David E. Duke	10/02/2012
Robert E. Griffin	11/07/2012
James A. Crouch	11/09/2012
Lori M. Glenn	11/14/2012
Michael Casey(dissolved)	12/07/2012
Alan Roughton	12/10/2012

## **BEFORE THE GRIEVANCE COMMITTEE**

### Totals for 2012

Total Grievance Files Opened – 1,239

Total Files Considered by Committee – 1,375

Dismissals – 1,163

Files dismissed & retained – 18

Files abated - 15

Files Dismissed with Letters of Caution – 22

Files Dismissed with Letters of Warning – 54

Files issued Admonitions – 21

Files issued Reprimands – 15

Files issued Censures – 6

Files issued reciprocal discipline – 2

Files referred to DHC – 83

### **Grievance Totals for January 2012\***

- 267 files were dismissed
- 9 files were dismissed and retained
- 5 files were abated
- 6 files were continued
- 3 files were denied reconsideration
- 0 lawyers were referred to the Lawyers' Assistance Program
- 4 lawyers received letters of caution
- 2 lawyers received letters of caution and were referred to the Chief Justice's Commission on Professionalism
- 13 lawyers received letters of warning
- 4 lawyers received admonitions
- 7 lawyers received reprimands
- 2 lawyers received censures
- 12 lawyers were referred to the Disciplinary Hearing Commission

*\*January 2012 totals include files dismissed in the 4<sup>th</sup> quarter of 2011 that are not included in the 2011 numbers listed in this report.*

### **Grievance Totals for April 2012**

- 236 files were dismissed
  - 1 file was dismissed and retained
  - 7 files were abated
  - 5 files were continued
  - 4 files were denied reconsideration
  - 0 lawyers were referred to the Lawyers' Assistance Program
  - 5 lawyers received letters of caution
  - 19 lawyers received letters of warning
  - 6 lawyers received admonitions
  - 2 lawyers received reprimands
  - 2 lawyers received censures
  - 14 lawyers were referred to the Disciplinary Hearing Commission

### **Grievance Totals for July 2012**

- 250 files were dismissed
  - 1 file was dismissed and retained
  - 0 files were abated
  - 6 files were continued
  - 5 file were reconsidered
  - 0 lawyers were referred to the Lawyers' Assistance Program
  - 3 lawyers were referred to the Trust Account Management Program
  - 5 lawyers received letters of caution
  - 14 lawyers received letters of warning
  - 8 lawyers received admonitions
  - 5 lawyers received five reprimands
  - 4 lawyers received a censures
  - 12 lawyers were referred to the Disciplinary Hearing Commission

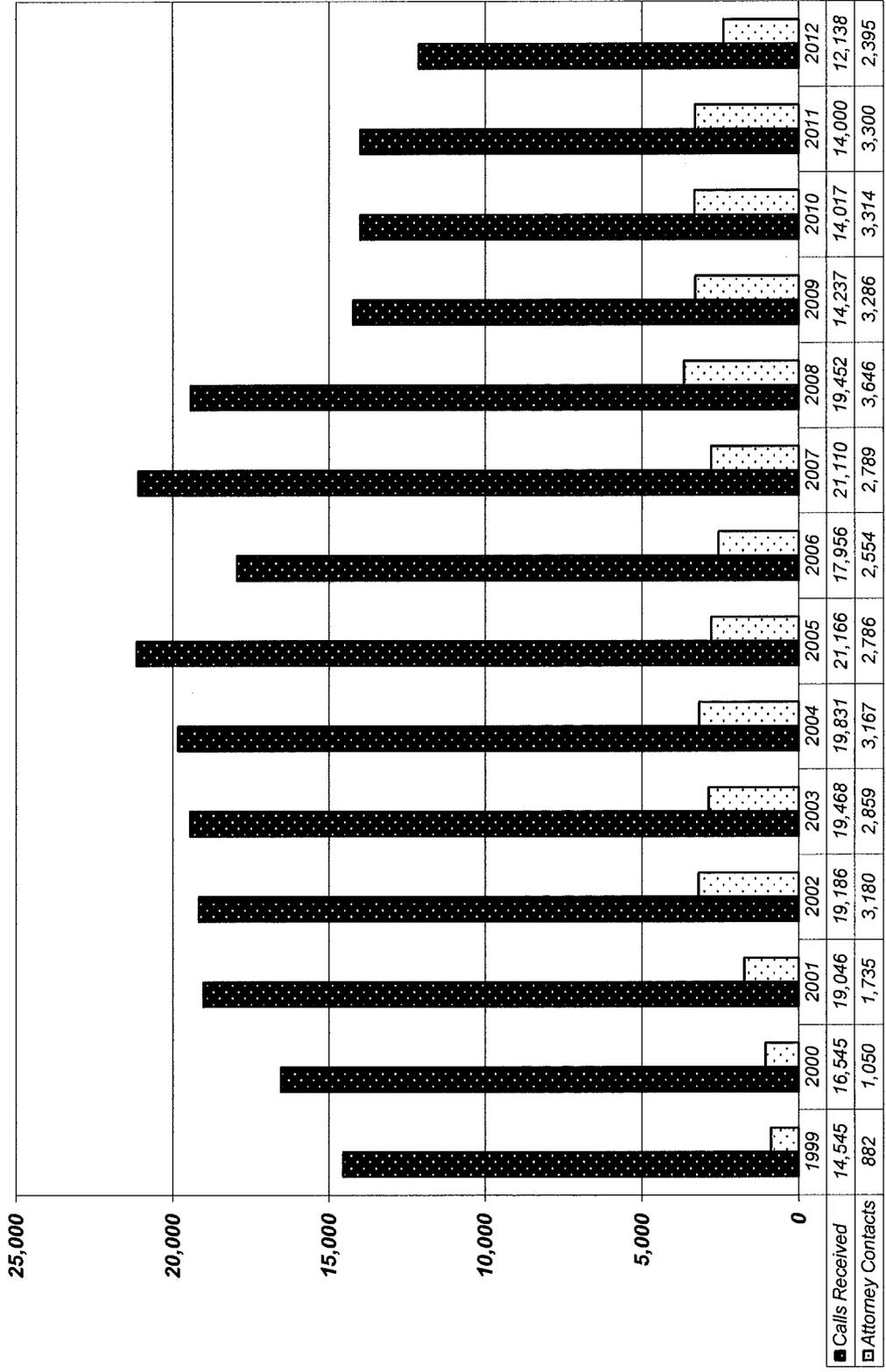
### **Grievance Totals for October 2012**

- 263 files were dismissed
  - 1 file was dismissed and referred to the Illinois State Bar
  - 3 files were dismissed and retained
  - 1 file was abated
  - 1 file was continued
  - 1 file was denied reconsideration
  - 1 lawyer was referred to the Lawyers' Assistance Program
  - 3 lawyers were referred to the Trust Account Management Program
  - 4 lawyers received letters of caution
  - 9 lawyers received letters of warning
  - 7 lawyers received admonitions
  - 1 lawyer received five reprimands
  - 1 lawyer received a censures
  - 16 lawyers were referred to the Disciplinary Hearing Commission

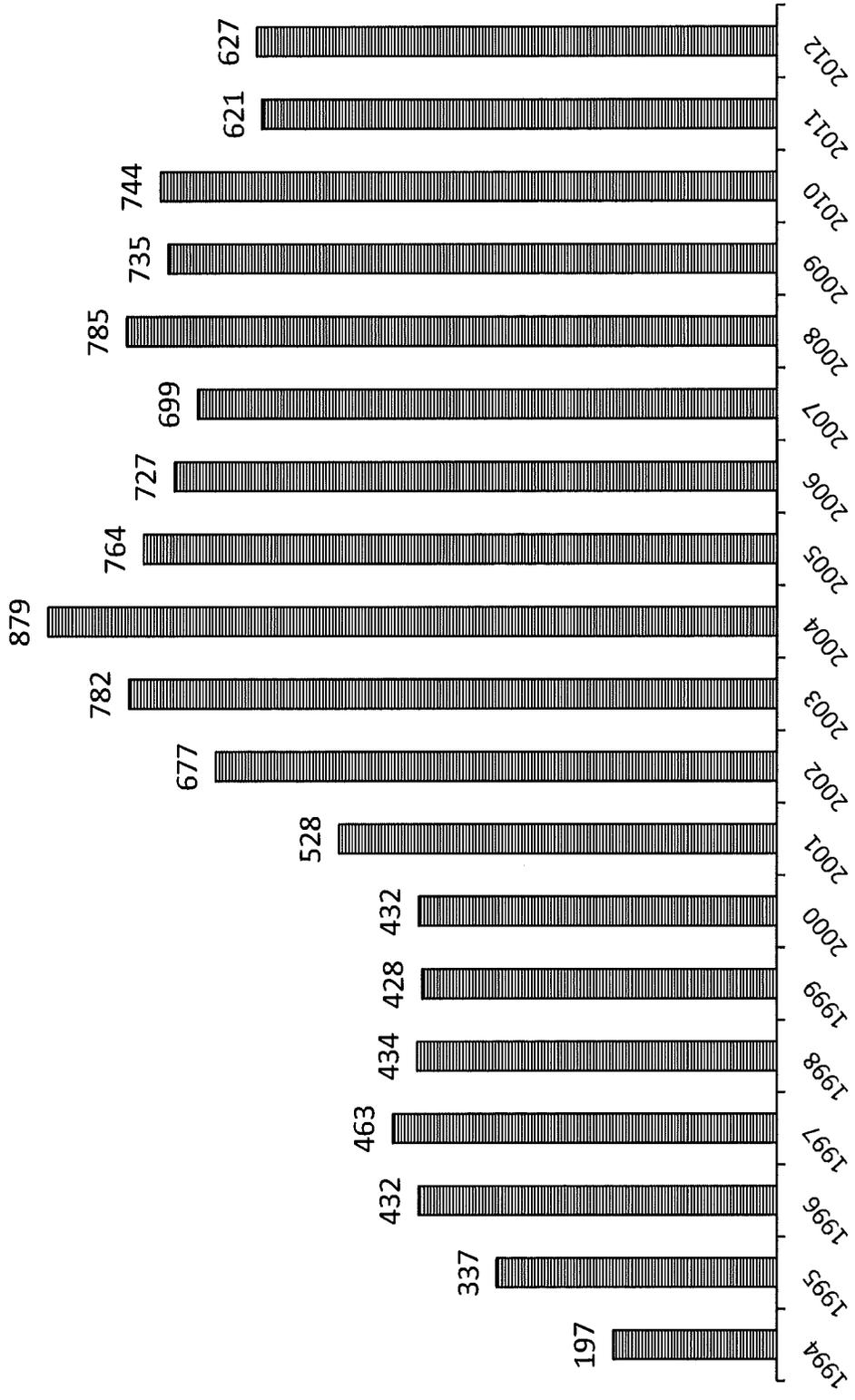
# ATTORNEY CLIENT ASSISTANCE PROGRAM

## Calls Received and Attorney Contacts

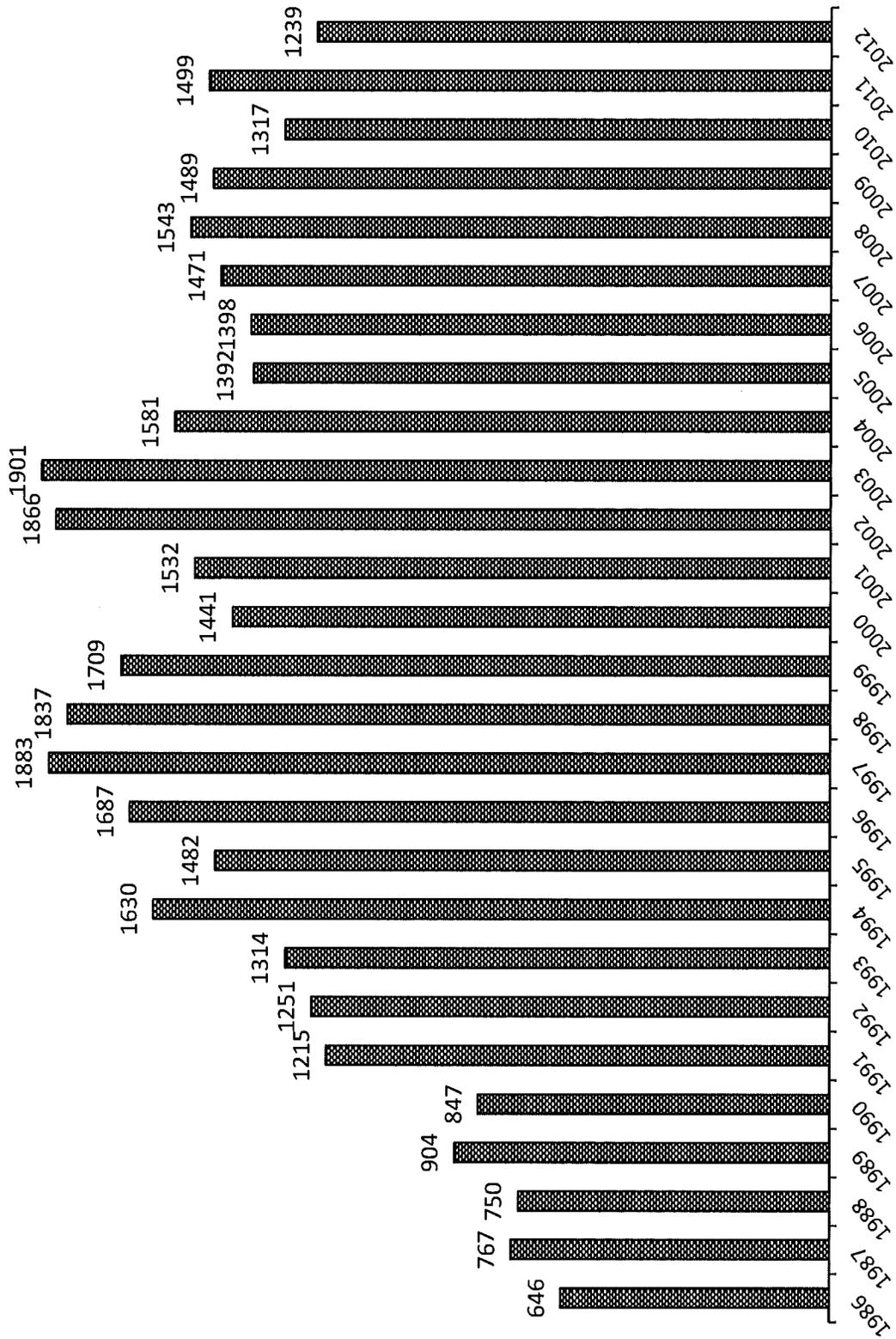
(January - December)



# Fee Dispute Resolution Petitions Filed



# Grievances Filed Annually



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

