

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
APRIL 21, 2017**

GRIEVANCES

In 2013, 1,205 grievance files were opened. In 2014, 1,222 grievance files were opened. In 2015, 1,331 grievance files were opened. In 2016, 1,375 grievance files were opened. Since January 1, 352 grievance files have been opened.

ATTORNEY CLIENT ASSISTANCE PROGRAM

The ACAP staff responded to 3,079 phone calls from members of the public and contacted 547 lawyers in an effort to resolve concerns expressed by clients. Staff also responded to 538 emails and 460 letters from inmates.

One hundred seventy-five requests for fee dispute resolution were filed during the quarter. One hundred thirty-four files were assigned to the two State Bar facilitators. The remaining 41 files were sent to district bar committees.

CASES COMPLETED SINCE JANUARY 2017 MEETING

Completed Discipline Cases in the DHC

William E. Brown – 15 DHC 28

Brown, of Fayetteville, was recently released from incarceration following his conviction for failing to file a federal income tax return. At the time of his disciplinary hearing, he was already serving two active disciplinary suspensions imposed by the DHC in prior cases. Brown was disbarred by the DHC.

Derek R. Fletcher – 16 DHC 31

Cornelius lawyer Derek Fletcher took fees for work he did not perform, received one of the fees while he was administratively suspended, did not respond to or participate in mandatory fee dispute resolution, and did not respond to the Grievance Committee. He was suspended by the DHC for one year. The suspension is stayed for three years upon his compliance with numerous conditions.

Lennard D. Tucker – 16 DHC 34

Tucker, of Winston Salem, misappropriated entrusted funds. He was disbarred by the DHC.

Paul Blake – 16 DHC 35

Blake, of Wilson, misappropriated funds of an estate. He was disbarred by the DHC.

Gregory Perry – 16 DHC 36

Perry, of Roanoke Rapids, tried to acquire drugs from a client he was representing on drug-related charges, falsely represented to jail authorities that he represented his girlfriend in order to gain access to her in jail, and was convicted of two counts of contempt of court for failing to appear on behalf of clients. He was disbarred by the DHC.

Stephanie L. Villaver – 17 DHC 3

Villaver, of Jacksonville, did not supervise assistants, one to whom she delegated trust account management and reconciliation duties and one to whom she delegated client communication and case negotiation duties. She thus enabled her assistants to misappropriate entrusted funds over several years, settle cases without client consent, and engage in the unauthorized practice of law. She was suspended by the DHC for five years. The suspension is stayed for five years upon her compliance with numerous conditions.

Marjorie R. Mann – 17 DHC 6

While dealing with a series of tragic circumstances in her personal life, Mann, of Asheville, forged signatures on a real estate deed and had her paralegal notarize them. She was suspended by the DHC for four years. The suspension is stayed for four years upon her compliance with numerous conditions.

Lawrence D'Amelio – 17 DHC 2

D'Amelio, of Greensboro, aided multiple out-of-state businesses in the unauthorized practice of law. He was suspended by the DHC for three years. The suspension is stayed for three years upon his compliance with numerous conditions.

Completed Discipline and Disability Proceedings in the Courts

Adam Loren Baker of Raleigh surrendered his license and was disbarred by the Wake County Superior Court. He misappropriated entrusted funds exceeding \$27,000.00.

In re: Colleen Janssen (Wake County Superior Court). The Wake County Superior Court appointed the Office of Counsel to investigate and report to the court upon alleged professional misconduct of former Wake County assistant district attorney Colleen Janssen. The OOC submitted its report under seal on December 9, 2016. The court ordered Janssen to appear and show cause why the court should not impose professional discipline. After hearing on March 8-10, the State Bar submitted a proposed order of discipline recommending that the court suspend Janssen for five years and permit her to seek a stay of the final three years upon compliance with conditions. The State Bar also recommended that Janssen receive credit toward service of the suspension for time she did not practice law after she resigned her position as assistant district attorney. On March 22, the court entered an order prohibiting Janssen from serving as prosecutor for any federal, state, county or municipal entity and prohibiting Janssen from practicing law in the employment of any federal, state, county, municipal or private entity or police agency providing legal advice or assistance to any law enforcement officers or law enforcement agencies. The court did not impose professional discipline.

Ronald Tyson Ferrell of Wilkesboro was suspended by the Wilkes County Superior Court. Ferrell did not supervise his employees, enabling them to steal over \$100,000 in entrusted funds. Ferrell also neglected his practice and did not file tax returns. The court suspended Ferrell for five years. Ferrell will be eligible to apply for a stay of the final three years upon demonstrating compliance with enumerated conditions.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were issued this quarter.

Transfers to Disability Inactive Status

Dee W. Bray, Jr. of Fayetteville was transferred to disability inactive status by the Cumberland County Superior Court.

H. Monroe Whitesides, Jr. of Charlotte was transferred to disability inactive status by the Chair of the Grievance Committee.

Interim Suspensions

Fletcher L. Hartsell, Jr. – 17 DHC 7

In February 2017 Concord lawyer Fletcher Hartsell pled guilty to the federal felony offenses of mail fraud and filing false tax returns. The Chair of the DHC suspended his license pending disposition of disciplinary proceedings.

Completed Petitions for Reinstatement/Stay - Uncontested

Michelle Hickerson Caron Gay – 15 DHC 51 & 17 BSR 4

In February 2016, Hickerson of Chapel Hill was suspended by the DHC for five years. The DHC concluded that Hickerson gave false testimony in a deposition and made false representations in a pleading filed in court. After serving one year of the suspension, Hickerson was eligible to petition for a stay of the balance. The DHC granted her petition for a stay on March 20, 2017.

William I. Belk – 13 DHC 6 & 17 BSR 3

Belk, a former district court judge from Charlotte, was removed from office by the Supreme Court for giving false testimony in proceedings before the Judicial Standards Commission. The DHC suspended him for three years in December 2013. He was reinstated by the Secretary on March 30, 2017.

Completed Petitions for Reinstatement/Stay - Contested

Michael L. Yopp – 02 BCS 4 & 16 BCR 2

Yopp surrendered his license to the Council and was disbarred on July 19, 2002. He admitted that he misappropriated the entrusted funds of multiple clients. After a hearing on September 7, 2016, the DHC recommended that the Council reinstate Yopp. The Council granted Yopp's petition and reinstated him at its January 2017 meeting, subject to Yopp successfully passing the North Carolina bar exam.

Jonathan A. McCollum – 10 BCS 2 & 16 BCR 3

McCollum, of Cary, surrendered his license to the Council and was disbarred on October 22, 2010. He admitted that he forged two documents purporting to be judicial orders, made misrepresentations to his clients about the documents, and made false statements to the Grievance Committee about the documents. McCollum pled guilty to misdemeanor forgery in Wake County. After a hearing on April 4, the DHC announced its decision to recommend that the Council deny McCollum's petition for reinstatement.

Robert J. Burford -- 16 BSR 6 & 11 DHC 3

Burford, of Raleigh, falsely inflated his litigation expenses for multiple clients in Vioxx class action litigation. The DHC imposed a two year stayed suspension in January 2012. The stay was subsequently lifted, and the suspension activated, effective November 23, 2012. He was reinstated by the DHC on February 10, 2017.

Steven B. DeCillis – 12 DHC 25 & 17 BSR 2

In July 2013, the DHC found that DeCillis, formerly of Oxford and now of Charlotte, did all of the following simultaneously: sued L.H. in a personal injury case, represented L.H. in three matters that were unrelated to the personal injury case, and engaged in a sexual relationship with L.H. He was suspended for five years. After serving three years, DeCillis was eligible to apply for a stay of the remaining two years upon demonstrating his compliance with numerous conditions. DeCillis's petition for stay was scheduled for hearing on April 28 but he withdrew the petition on April 10.

Completed Motions to Show Cause

There were no motions to show cause completed in the Disciplinary Hearing Commission.

TROs and Preliminary Injunctions

The office obtained preliminary injunctions in Wake County Superior Court prohibiting **Paige C. Cabe** of Sanford, **Dee W. Bray, Jr.** of Fayetteville, **A. Scott Hamilton** of Henderson, and **James Marshall Shelton** of Burlington from handling entrusted funds.

Surrenders to the Council

No lawyers are expected to surrender their licenses 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 October 2019. 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.

Michael J. Anderson – 15 DHC 47 & 15 DHC 47D

It is alleged that Wilson lawyer Michael Anderson 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, stayed the discipline proceeding pending resolution of the disability issue, and repeatedly ordered Anderson to undergo evaluation. Anderson has defied several DHC orders requiring him to undergo evaluation. Meanwhile, Wake County Superior Court entered a TRO and a preliminary injunction prohibiting Anderson from practicing law until the discipline and disability cases are concluded. The DHC stayed the disability case until Anderson complies with its orders to undergo evaluation.

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 continued upon Allred's motion and has not been rescheduled pending her evaluation. The evaluation was completed in January 2017 but Allred did not sign a release until mid-March 2017 authorizing the psychologist to share the evaluation with staff counsel.

John I. Averitt – 16 DHC 4 & 16 DHC 4D

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. Because Averitt raised disability in his answer, the disciplinary proceeding was stayed and Averitt was transferred to disability inactive status. The disability hearing scheduled for February 16, 2017 was continued at Averitt's request and has not been rescheduled.

Lisa M. Dukelow – 16 DHC 8

It is alleged that Dukelow, of Durham, misappropriated entrusted funds, neglected several clients, and did not respond to the Grievance Committee. Because she raised disability in her answer, the DHC stayed the disciplinary proceeding and transferred Dukelow to disability inactive status. She is enjoined from handling entrusted funds. The disability hearing has not been scheduled.

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 by, among other devices, fabricating lease agreements to cause lenders to believe his client was purchasing houses as rental property when his client was actually purchasing the houses in which to grow marijuana for a large scale drug trafficking operation. The Chair of the DHC entered an order of interim suspension of his law license. Hearing has not been scheduled because he is in prison.

Jesse W. Jones – 16 DHC 17

It is alleged that Jones yelled and cursed at opposing counsel and opposing parties and was otherwise disruptive on multiple occasions. Hearing was continued and has not been rescheduled.

Mary M. Exum – 16 DHC 18

It is alleged that Exum, of Asheville, misappropriated entrusted funds, improperly solicited professional employment from a potential client, made misleading statements about her legal services, withheld a client's requested file materials to coerce the client to reimburse her for expenses, and disbursed entrusted funds contrary to a perfected lien. She is enjoined from handling entrusted funds. Hearing is scheduled for May 1-3, 2017.

Robert Weckworth – 16 DHC 22

Weckworth, of Guilford County, allegedly communicated with two individuals known to be represented by counsel, engaged in an improper *ex parte* communication, and filed a non-meritorious claim. Hearing began on April 7 but was not completed. The conclusion has not been scheduled.

Scott S. Dorman – 16 DHC 26

It is alleged that Dorman, of Las Vegas, Nevada, neglected two client matters. Hearing was continued and has not been rescheduled.

Marquis D. Street & David H. Harris, Jr. – 16 DHC 30

It is alleged that Street, of Guilford County, and Harris, of Durham County, engaged in a conflict of interest, failed to explain a matter to the extent reasonably necessary to allow their client to make an informed decision, pursued a claim that lacked merit, and charged an excessive amount for fees and expenses. The State Bar dismissed the claim against Street after he died. Hearing for Harris is scheduled for May 19, 2017.

Jerry Braswell – 16 DHC 37

It is alleged that Braswell, of Goldsboro, engaged in sexual relations with a client, did not properly terminate his representation of a second client, and filed a motion on behalf of but failed to take further action on behalf of a third client. Hearing is scheduled for June 1-2, 2017.

Craig Asbill – 16 DHC 40

It is alleged that Charlotte lawyer Craig Asbill neglected a client's case, did not properly communicate with the client, and did not respond to and made false statements to the Grievance Committee. Hearing is scheduled for July 14, 2017.

Scott Shelton – 17 DHC 1

It is alleged that Shelton, of Hendersonville, violated numerous trust accounting rules. He is enjoined from handling entrusted funds. Hearing is scheduled for May 12, 2017.

Jeanne Hall – 17 DHC 4

It is alleged that Hall, of Brevard, charged excessive fees, engaged in conflicts of interest, and made dishonest statements to her clients. Hearing is scheduled for July 21, 2017.

William McKeny – 17 DHC 5

It is alleged that McKeny, of Rockwell, did not properly wind-down his practice when he was suspended by the DHC, abandoned his clients, did not withdraw from pending cases, and did not refund unearned fees. Hearing is scheduled for June 5, 2017.

Brent King – 17 DHC 8

It is alleged that King, of Huntersville, committed the crime of issuing worthless checks and violated multiple trust account rules. Hearing has not been scheduled.

Steven Troy Harris – 17 DHC 9

It is alleged that Harris, of Durham, did not inform his clients that his license was administratively suspended, did not withdraw from representation, did not refund unearned fees, provided false status updates to his clients, engaged in the unauthorized practice of law, and did not respond to the Grievance Committee. Hearing has not been scheduled.

Edna R. Walker – 17 DHC 10

It is alleged that Walker, of Rutherfordton, did not file her personal tax returns and did not pay employment taxes. Hearing has not been scheduled.

Robert Raynor – 17 DHC ____

It is alleged that Raynor, of New Bern, was found during successive random audits to have violated trust account rules. 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 or stay.

Pending Petitions for Reinstatement/Stay - Contested

There are no pending contested petitions for reinstatement or stay.

TRUST ACCOUNTING COMPLIANCE PROGRAM

Thirty-three lawyers have successfully completed the TACP program since its inception. Peter currently supervises 15 participants. He continues to review random audits to evaluate potential candidates for the program.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 29 new files this quarter. The committee will address 27 files at its April meeting.

Three proposed prepaid legal services plans submitted applications for registration this quarter. Counsel has completed review of two applications and is still reviewing one application. One plan was registered. Another plan was denied registration because it did not qualify. Counsel is still reviewing the third application. Five plans submitted amendments this quarter. Three were registered and two are still being reviewed. One plan failed to submit the required annual renewal form and fee to the State Bar last quarter. At its April meeting, the Authorized Practice Committee will vote on whether to issue a notice for the plan to show cause why its registration should not be revoked.

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 District of the State of North Carolina (US District Court, MDNC). 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 issued an ethics advisory 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 original defendants from enforcing the statutes against it. CAI 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 original defendants' motions to dismiss and denied CAI's motion for preliminary injunction. The parties are engaged in discovery. The court has scheduled trial for early October. Van Laningham Duncan represents the State Bar.

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. 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 The plaintiffs alleged that all of those defendants operate collectively and interchangeably under various names that include the words "World Law." The plaintiffs allege that they drafted and provided pleadings for debtors to file "*pro se*" and provided 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 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. In February 2015, WLS dissolved and Orion filed for bankruptcy under Chapter 11. In August 2015, the Bankruptcy Court converted the Orion bankruptcy to Chapter 7 and began liquidation proceedings. Also in August 2015, the federal Consumer Finance Protection Bureau filed a nationwide injunction action against the defendants in federal court in Florida. That Court entered an injunction against all defendants and a receiver for the assets of the defendants. On December 12, 2016, the Court granted the State Bar and the State of North Carolina's motion for summary judgment against Orion. On March 7, 2017, the Court entered a consent judgment against Derrin Scott and default judgments against Swift Rock, Haskins, and WLS. None of the defendants appealed. The Office of Counsel represented the State Bar.

The Executive Committee authorized the Office of Counsel to file a lawsuit seeking injunctive relief against **Thomas D'Arco** d/b/a Infinity Legal Group. D'Arco is a California attorney alleged to provide loan modification services to North Carolina residents. The complaint is ready for filing. Counsel is negotiating a consent order of permanent injunction.

OTHER OUTSIDE LITIGATION

Capitol Broadcasting Company, Inc. v. Disciplinary Hearing Commission (Wake County Superior Court). WRAL-TV filed this lawsuit against the DHC on January 12, 2015 challenging the DHC's decision not to allow live streaming of the trial in *North Carolina State Bar v. Mumma* and seeking an award of its expenses in bringing the action. 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.

Jerry R. Tillett v. NCSB and the North Carolina Judicial Standards Commission (Dare County Superior Court). Superior Court Judge Jerry Tillett sought 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 sought to enjoin the DHC action and sought costs and attorney fees. The case was designated exceptional under General Rule of Practice 2.1 and assigned to Wake County Senior Resident Superior Court Judge Donald W. Stephens. The trial court denied Tillett's motion for a preliminary injunction and indicated that it would retain jurisdiction of the lawsuit until the DHC action was resolved. The Supreme Court granted discretionary review of a jurisdictional issue in the disciplinary case and stayed this lawsuit pending its decision. On December 21, 2016, the Supreme Court issued its decision that the DHC does not have jurisdiction to discipline a sitting judge for conduct engaged in while a judge when the judge has been disciplined by the Judicial Standards Commission. The DHC dismissed the disciplinary case with prejudice. Tillett dismissed this lawsuit without prejudice. Mullins Duncan represented the State Bar.

Japeth Matemu v. the North Carolina State Bar (US District Court, EDNC). On March 20, Matemu filed a complaint in federal court alleging that the Grievance Committee issued a reprimand against him without jurisdiction. Matemu is licensed in New York, but practices immigration law in Raleigh and the reprimand was issued based on his representation of North Carolina clients in accordance with Rule 8.5. On March 21, the Court entered an order denying Matemu's requests for a TRO and a preliminary injunction and ordered Matemu to show cause why his lawsuit should not be dismissed. On March 23, Matemu filed a voluntary dismissal without prejudice.

James Ronald Peggs v. North Carolina State Bar (Industrial Commission, State Tort Claim Action). The plaintiff identified himself as "Trustee and Trustee Board of Grave Stone International Express Trust," a purported trust formed in an effort to defeat a foreclosure. He alleged that the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. The plaintiff alleged that the clerk of court and three lawyers for the trustee were agents of the State Bar but alleged no facts that could sustain that claim. The deputy commissioner dismissed the complaint with prejudice on January 12, 2017. Peggs did not appeal. The Attorney General represented the State Bar.

David S. Harless v. Root Edmonson et al (US District Court for the Southern District of West Virginia). In 2005, David S. Harless was transferred to disability inactive status. Harless' petitions for reinstatement to active status were denied in 2010 and 2012 because he did not demonstrate that he was no longer disabled. On December 21, 2016, Harless filed a lawsuit in federal court in West Virginia against State Bar employees Root Edmonson and Jennifer Porter, among others. On January 4, 2017, the federal court dismissed the lawsuit on its own motion. The court characterized the complaint as "incoherent, fanciful ramblings which lack any arguable basis in law or fact." The complaint had not been served on Edmonson or Porter. Harless did not appeal.

Client Security Fund Claims/Subrogation Cases

There are 22 claims on the agenda for the Board's April 20 meeting.

Four lawsuits in superior court seeking reimbursement from disbarred lawyers for payments made by the CSF were resolved. One new subrogation complaint has been filed.

Disbursement Cases

The office filed five motions in Superior Court for permission to disburse funds in disbarred lawyers' trust accounts. The office attended five hearings on motions to disburse, obtained orders directing the disbursement of \$25,060.82 of entrusted funds, and investigated and closed thirty-eight files that did not require further court motions or orders. Several disbursement motions are ready for hearing.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **Rion C. Brady** of High Point, **Fred E. Lewis, III** of Mount Airy, **Noland R. "Randy" Mattocks, Jr.** of Advance, and **Charles Kenyon Hubbard** of Gastonia; the practice of disbarred attorney **Christopher E. Greene** of Charlotte; and the practices of **Dee W. Bray, Jr.** of Fayetteville and **H. Monroe Whitesides, Jr.** of Charlotte who are both suffering from conditions that render them unavailable to clients.

The office helps all current trustees fulfill their duties and helps members of the public in locating files of deceased, disbarred, disabled, and missing lawyers.

APPEALS

Completed 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. The Court of Appeals affirmed on October 18, 2016. Sutton filed a notice of appeal to the North Carolina Supreme Court, contending that the case involves substantial constitutional questions. On March 17, 2017, the Supreme Court granted the State Bar's motion to dismiss Sutton's appeal. The Office of Counsel represented the State Bar.

Pending Appeals

NCSB v. Jennifer Foster (14 DHC 7). In September, the DHC suspended Asheville lawyer Jennifer Nicole Foster for two years. The suspension is stayed upon her compliance with numerous conditions. The DHC found that Foster engaged in conduct degrading to a tribunal and prejudicial to the administration of justice by using profanity when addressing a magistrate. She gave notice of appeal. The parties have agreed upon the record on appeal. Foster should file the record before April 10, 2017. The Office of Counsel represents the State Bar.

NCSB v. Christopher Livingston (15 DHC 15). On July 14, 2016, the DHC entered an order suspending Livingston for five years. Livingston will be eligible to petition for a stay of the balance after serving two years active. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. The Court of Appeals denied Livingston's petition to stay the DHC order pending appeal. Livingston's brief is due April 27. The Office of Counsel represents the State Bar.

NCSB v. Clifton Gray (15 DHC 38). In September, the DHC suspended Raleigh lawyer Clifton J. Gray, III for five years. He will be eligible to petition for a stay of the last year upon demonstrating compliance with numerous conditions. The DHC found that Gray disrupted court proceedings, was held in contempt of court, and was convicted of brandishing a gun at members of the public on a roadway. Gray gave notice of appeal on October 17 and again on December 15. The Court denied Gray's motion to require the State Bar to bear the expense of providing him a trial transcript. The Office of Counsel represents the State Bar.

NCSB v. Dawn Ely (16 DHC 1). In August, 2016, the DHC suspended Dawn Ely for five years because she offered to provide legal services in North Carolina while her North Carolina license was on inactive status. After serving two years active, she will be eligible to petition for a stay of the balance on demonstrating compliance with numerous conditions. Ely appealed. Ely recently retained counsel and received an extension to serve a proposed record on appeal until May 3, 2017. The Office of Counsel represents the State Bar.

Eugene Boyce v. NC State Bar (Wake County Superior Court). Boyce alleges that he filed a grievance against Roy Cooper for conduct that allegedly occurred in 2000 when Cooper was a candidate running against Boyce's son to become Attorney General of North Carolina. He seeks declaratory judgments that (1) the State Bar has a conflict in handling the grievance because the Attorney General represents the State Bar in various lawsuits and (2) the State Bar is obliged by law to refer the grievance to the courts for investigation and disciplinary action and an award of costs. The court dismissed the complaint. Boyce appealed to the North Carolina Court of Appeals. Oral argument was held on February 7. The State Bar was represented by Parker Poe Adams and Bernstein in the trial court but is represented by the Office of Counsel on appeal.

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. During some or all of the events alleged in the complaint, John Silverstein served as Chair of the Grievance Committee and is presently President Elect of the State Bar. 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 the 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 Court of Appeals. The Fourth Circuit dismissed that appeal as interlocutory. On January 19, 2016, the Court dismissed Myers' claims against the remaining defendants. Myers again appealed to the Fourth Circuit. On December 27, 2016, the Fourth Circuit dismissed her appeal. Her petition for *en banc* hearing by the Fourth Circuit was denied on February 28, 2017. Her time in which to petition the United States Supreme Court for certiorari has not expired. The Office of Counsel represents the State Bar defendants.

Miscellaneous

Jennifer volunteers as a judge for the Capital Area Teen Court diversion program. Jennifer also continues to judge mock trial competitions. She judged two rounds of a collegiate tournament sponsored by the American Mock Trial Association and hosted by the Carolina Mock Trial student organization. Jennifer taught a CLE on Ethics in Litigation hosted by the Insurance Law and Litigation Sections of the North Carolina Bar Association.

Mary volunteered at the 10th Judicial District Expunction Clinic.

Peter continues to give 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. Peter writes a quarterly trust accounting article in the *Journal* and uses the State Bar Twitter account to notify members of trust account scams that come to the State Bar's attention. Peter is the State Bar's legislative liaison and is heavily involved in the current legislative session, which began in January.

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. She is Programs Chair of the WCBA Professionalism Committee coordinating the Committee's presentation of educational programs. She is also leading the creative team for this year's WCBA Bar Awards. In the last quarter, Carmen taught a CLE on deposition misconduct at NCAJ and gave a two-hour presentation at the New Prosecutor's School at the School of Government. Carmen serves as a mentor to a 3L student through Campbell Law's Connections Mentoring Program and is Associate Adjunct Professor of professional responsibility at UNC School of Law.

Leonor continues to serve on the NCBA Professionalism Committee and on the 10th JD/WCBA Professionalism Committee, where she is co-chair of the Publications Subcommittee.

Brian was appointed to the Board of Advisors for the First Amendment Law Review at UNC. He teaches legal research and writing at Campbell Law and was recently named the Most Outstanding Legal Research and Writing Professor for the 2016-17 school year. He is also a frequent guest lecturer at other law schools. In February, Brian and Peter presented a CLE to the Mecklenburg County Bar on closing down an estate practice. In April, Brian and Josh presented a CLE to the Wake County Young Lawyers Division on ethical considerations in starting a law practice. Brian also supervises the Bar's intern program. Brian also continues to serve as co-chair of the 10th JD/WCBA Memorial Committee.

Katherine continues to serve on the NCBA Professionalism Committee.