

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
APRIL 20, 2018**

ATTORNEY CLIENT ASSISTANCE PROGRAM

The ACAP staff responded to 4,478 phone calls from members of the public and contacted 917 lawyers in an effort to resolve concerns expressed by members of the public. Staff also responded to 681 emails and 644 letters from inmates. During the same quarter of 2017, staff responded to 3,079 phone calls, contacted 547 lawyers and responded to 538 emails and 460 letters from inmates.

The office received 127 requests for fee dispute resolution during the quarter. One hundred-four files were assigned to the two State Bar facilitators. The remaining 21 files were assigned to district bar committees. During the same quarter in 2017, the office received 175 requests for fee dispute resolution of which 134 files were assigned to State Bar facilitators and 41 were assigned to district bar committees.

GRIEVANCES

In 2015, 1,331 grievance files were opened. In 2016, 1,375 grievance files were opened. In 2017, 1,305 grievance files were opened. Since January 1, 2018, 380 grievance files have been opened.

As of March 27, 891 grievances were pending. One hundred-twenty grievances were stayed. Forty pending files were in the judicial district grievance committees or had been returned by the district grievance committees within the past 30 days. The OOC had made its recommendation in 107 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 624 files in which no recommendation has yet been made, 136 were more than six months old. Since the January 2018 meeting, 75 files were dismissed by the Grievance chair and 63 files were dismissed by the Grievance chair and a vice chair.

Fern reviewed two lawyer advertising complaints that were sent anonymously to the office. There was no need to open a file against one of the lawyers as a grievance had been filed in 2017 against the lawyer for the same advertising allegations. A grievance was opened against another lawyer as a result of the anonymous complaint.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

The OOC completed seven discipline cases involving seven lawyers in the DHC this quarter.

Amy E. Allred – 16 DHC 2

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. She was

suspended by the DHC for two years. The suspension is stayed for two years upon Allred's compliance with numerous conditions.

Jesse W. Jones – 16 DHC 17

Jones yelled and cursed at opposing counsel and opposing parties and was otherwise disruptive on multiple occasions. The DHC suspended him for one year. The suspension is stayed for three years upon Jones' compliance with numerous conditions.

Richard B. Schultz – 17 DHC 24

Schultz, of Gastonia, did not respond to questions from Trust Account Compliance Counsel after a random audit, did not respond to the Grievance Committee, did not properly reconcile his trust account, and did not promptly remove earned fees from the trust account. He was reprimanded by the DHC.

Bryon M. Smith – 17 DHC 28

Smith, of Jacksonville, violated multiple trust accounting rules. He was suspended by the DHC for two years. The suspension is stayed for two years upon Smith's compliance with numerous conditions.

Kevin Kennedy – 17 DHC 33

Kennedy, of Chapel Hill, over-disbursed entrusted funds, did not reconcile his trust account, maintained inaccurate client ledgers, and commingled his personal funds with entrusted funds. The DHC suspended him for two years. The suspension is stayed for three years upon Kennedy's compliance with numerous conditions.

Lisa Page – 18 DHC 12

Page, of Charlotte, violated numerous trust accounting rules and held entrusted funds in an earnest money account that she did not identify or manage as a trust account. She was suspended by the DHC for two years. The suspension is stayed for two years upon Page's compliance with numerous conditions.

Jeffrey S. Miller – 18 DHC 13

Miller, of Jacksonville, agreed that his client would not file a Bar grievance against the client's former attorney if the attorney would pay money to settle a dispute between them. He was reprimanded by the DHC.

Completed Surrenders to the Council

No lawyers surrendered to the Council at its January meeting.

Completed Discipline and Disability Proceedings in the Courts

Robert F. Garner of Greensboro surrendered his law license and was disbarred by the Wake County Superior Court. Garner admitted that he misappropriated at least \$9,470.70 in entrusted funds. He also did not properly reconcile his trust account, properly label disbursements and maintain accurate client ledgers.

Junius A. Crumpler of Raleigh surrendered his law license and was disbarred by the Wake County Superior Court. Crumpler admitted that he engaged in the practice of law without an active law license, did not refund an unearned fee, knowingly and intentionally made false statements and misrepresentations to his client and to a tribunal, did not properly maintain entrusted funds, obtained property by false pretenses, engaged in conduct prejudicial to the administration of justice, and knowingly and intentionally made a material misrepresentation to the Grievance Committee.

Orders of Reciprocal Discipline

The Chair of the Grievance Committee issued an order of reciprocal discipline disbaring **Philip M. Kleinsmith** of Colorado Springs, Colorado. Kleinsmith was disbarred by the Colorado disciplinary authority and the order was affirmed by the Supreme Court of Colorado. The order concluded that Kleinsmith billed for and received payment from a client for title services performed on the client's behalf by a third party title company and knowingly converted the funds to pay other law firm expenses rather than paying the title company.

The Chair of the Grievance Committee issued an order of reciprocal discipline suspending **J. Ronald Denman**, of Tampa, Florida, for thirty days. The suspension is deemed to have run concurrently with the suspension of his license in Florida from November 18 – December 19, 2016. The Florida Supreme Court concluded that Denman engaged in a conflict of interest and committed actions inconsistent with orderly judicial proceedings.

Transfers to Disability Inactive Status

The Chair of the Grievance Committee transferred **Powell W. Glidewell, IV** of Newland and **Lorie Cramer** of Denver, Colorado to disability inactive status.

Interim Suspensions

The Chair of the DHC entered an interim suspension of the law license of **David R. Payne** of Marshall. Payne pled guilty to the federal felony offense of knowingly making false statements for the purpose of influencing a federally-insured lending institution in violation of 18 U.S.C. § 1014.

Completed Petitions for Reinstatement/Stay - Uncontested

John M. Holmes – 16 DHC 5

In April 2016, the DHC suspended the law license of Holmes, of Raleigh, for three years but stayed the suspension upon compliance with extensive conditions, including participation in real-time alcohol monitoring requiring him to submit to multiple daily breathalyzer tests. The State Bar initiated a show cause proceeding because, during the first three and a half months following entry of the DHC order, Holmes missed at least 45 days worth of testing. The DHC activated Holmes's suspension on January 11, 2017. The order provided that, after serving three months of the active suspension, Holmes could petition for a stay of the balance upon demonstrating compliance with the conditions of the order. The DHC granted his petition for stay on March 20.

Shaun L. Hayes – 16 DHC 38

In November 2016, the DHC concluded that Hayes, of Asheboro, engaged in dishonest conduct by submitting an agreement bearing a false, handwritten signature in support of his response to a fee dispute petition and denying to the Grievance Committee that he handwrote the signature. He was suspended for two years. After serving one year, Hayes was eligible to apply for a stay of the balance upon demonstrating compliance with conditions. He was reinstated by the DHC on January 22.

Completed Petitions for Reinstatement/Stay - Contested

R. Kelly Calloway, Jr. – 16 DHC 3

In October 2016, the DHC suspended Calloway, formerly of Connelly Springs, for four years for failing in multiple years to file federal and state tax returns and to pay federal and state taxes. After serving one year of the suspension, Calloway was eligible to petition for a stay of the balance. After hearing, the DHC denied his motion for a stay of the balance of the suspension and imposed modified and/or additional conditions Calloway must meet to qualify for a stay of the suspension.

Joan Elizabeth Spradlin – 17 RD 1

In March 2008, Spradlin was transferred to disability inactive status by the Chair of the Grievance Committee. She was reinstated to active status by the DHC on March 19.

Tracey Cline – 12 DHC 22 & 17 BSR 8

Cline was the elected district attorney of Durham County until she was removed from office pursuant to N.C. Gen. Stat. §7A-66. In June 2015, Cline was suspended by the DHC for five years for filing pleadings containing false and outrageous statements about a judge and making false representations in court filings in an attempt to obtain confidential prison visitation records. After she served two years of the suspension, Cline was eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions. Cline filed a petition for a stay but did not appear at the hearing on that petition. The DHC denied the petition on December 20, 2017. Also on December 20, 2017, Cline filed a second petition for a stay of the suspension. The DHC denied the second petition after a hearing on April 6.

Completed Motions to Show Cause

Jeffrey D. Smith – 15 DHC 27

In September 2015, the DHC suspended Smith, of Charlotte, for two years for violating trust accounting rules. The suspension was stayed for three years. The DHC concluded that Smith violated multiple conditions of the stay, including conditions requiring him to demonstrate proper trust accounting procedures. In August 2017, the State Bar sought an order to show cause, alleging that Smith did not comply with numerous conditions of the September 2015 order. Following a hearing in November 2017, the DHC imposed additional conditions and extended the length of the stay. Following a hearing on March 18, the DHC concluded that Smith did not comply with the November 16 order and activated the two year suspension. After he serves one year of active suspension, Smith will be eligible to apply for a stay of the balance upon demonstrating compliance with numerous conditions.

TROs and Preliminary Injunctions

The OOC obtained preliminary injunctions in Wake County Superior Court prohibiting **David H. Caffey** of Winston-Salem and **Charles L. Morgan, Jr.** of Charlotte and **Robert F. Garner** of Greensboro from handling entrusted funds.

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 fifteen-year prison sentence. The DHC stayed the proceedings until Lamb is released. His release date is currently forecasted for October 2019. The Chair of the DHC entered an order of interim suspension of his law license.

Robert Melville, Jr. – 13 DHC 9

The Chair of the DHC entered an order of 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 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, 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. The DHC stayed the disability case until Anderson complies with its orders to undergo evaluation. Meanwhile, the Wake County Superior Court entered a preliminary injunction prohibiting Anderson from practicing law until the discipline and disability cases are concluded.

Joseph Lee - 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 them as marijuana grow houses for a large-scale drug trafficking operation. The Chair of the DHC entered an order of interim suspension of his law license. Levinson was recently released from prison. The complaint has not been filed.

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 23.

Brent King – 17 DHC 8

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

Frederick J. Owens - 17 DHC 17

It is alleged that Owens, of Wilmington, collected an illegal fee, violated numerous trust accounting rules, and made false statements to the Grievance Committee about his participation in the Trust Account Compliance Program. The DHC entered an order establishing the rule violations by default. Hearing on the appropriate discipline has not been scheduled.

Joseph Forbes – 17 DHC 19

It is alleged that Forbes, of Elizabeth City, violated numerous trust accounting rules. The DHC entered an order establishing the rule violations by default. Hearing on the appropriate discipline was continued and has not been rescheduled.

Michael Parker – 17 DHC 20

It is alleged that Parker, of Mocksville, did not pay over taxes withheld from employee paychecks, did not remit to a client all funds he collected for the client, and took on new legal work while he was administratively suspended. Hearing is scheduled for May 10-11.

Julie Parker – 17 DHC 21

It is alleged that Parker, of Mocksville, did not pay over taxes withheld from employee paychecks. Hearing is scheduled for May 10-11.

Craig M. Blitzer – 17 DHC 23

Blitzer, of Reidsville, is the former elected district attorney of Rockingham County. It is alleged that Blitzer allowed his staff to take online academic tests for his wife on State time. The grievance has been stayed pending the availability of the SBI investigative report. Blitzer pled guilty in Wake County Superior Court to misdemeanor willful failure to discharge duties. The Chair of the DHC entered an order of interim suspension of his law license.

Jerry B. Clayton, Robert W. Myrick, Robert D. McClanahan, Ronald G. Coulter, and Gladys Nicole Clayton – 17 DHC 25

It is alleged that the law firm of Clayton, Myrick, McClanahan, & Coulter, PLLC in Durham did not properly reconcile its trust account. It is alleged that Ms. Clayton did not respond to questions from Trust Account Compliance Counsel after a random audit. It is alleged that Ms. Clayton, Mr. Clayton, and Mr. McClanahan did not timely respond to the Grievance Committee. It is alleged that Ms. Clayton modified reconciliation records provided to the State Bar to hide dates so it would appear the reconciliations were timely performed when they were actually created on the date of production to the State Bar. It is alleged that Ms. Clayton made misrepresentations to the State Bar and that the other defendants either knowingly made the same misrepresentations or made those misrepresentations with reckless disregard as to their truth or falsity. Hearing is scheduled for June 27 and 28.

Joe S. Major, III – 17 DHC 26 and 17 DHC 26D

It is alleged that Major, of Charlotte, misappropriated fiduciary funds and obtained real property through constructive fraud and that, in a separate matter, Major did not keep proper records, did not properly account for estate assets, and disbursed funds pursuant to a power of attorney that had been revoked by the principal's death. He is enjoined from handling entrusted funds. In

April, the DHC entered an order finding probable cause to believe Major may be disabled and instructed the State Bar of file a disability complaint. The disciplinary proceeding is stayed. Hearing on disability has not been scheduled.

Gavin A. Brown – 17 DHC 29

It is alleged that Brown, of Waynesville, forged a notary's signature and affixed the notary's seal to a deed without authorization. Hearing has not been scheduled.

Mark V. Gray – 17 DHC 31

It is alleged that Gray, of Greensboro, did not file federal or state tax returns and did not pay federal or state income taxes from 1997 through 2005 and from 2008 through 2014. Hearing is scheduled for May 24.

Phillip S. Adkins – 17 DHC 32

It is alleged that Adkins, of Snow Camp, violated multiple trust accounting rules. He is enjoined from handling entrusted funds. Hearing is scheduled for May 8.

Carson W. Freeman – 17 DHC 35

It is alleged that Freeman, of Charlotte, misappropriated entrusted funds and committed other trust account violations. She is enjoined from handling entrusted funds. Hearing is scheduled for August 2-3.

Matthew A. Smith – 18 DHC 1

Smith was convicted in Wake County of taking indecent liberties with a child, a felony, in violation of N.C. Gen. Stat. § 14-202.1. The Chair of the DHC entered an interim suspension of his law license.

Paige C. Cabe – 18 DHC 2

It is alleged that Cabe, of Sanford, misappropriated entrusted funds and committed other trust account violations, did not respond to several letters of notice, neglected clients, did not communicate with clients, did not refund unearned fees, engaged in conduct prejudicial to the administration of justice including failing to appear for scheduled hearings, and engaged in dishonest conduct. She is enjoined from handling entrusted funds. Hearing has not been scheduled.

Arnold O. Jones – 18 DHC 3

Jones, of Goldsboro, was convicted of the federal felony of promising and paying gratuities to a public official in violation of 18 U.S.C. 201(c)(1)(A) for attempting to induce a law enforcement officer to unlawfully obtain the text messages of Jones's wife. Hearing has not been scheduled.

Jeffrey Warren Ellingworth – 18 DHC 4

It is alleged that Ellingworth, of Syracuse, New York and formerly of Charlotte, did not inform clients that his license was suspended, engaged in the unauthorized practice of law, neglected multiple clients, did not participate in mandatory fee dispute resolution, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, and did not respond to the State Bar. Default has been entered. Hearing has not been scheduled.

Tania L. Leon – 18 DHC 5

It is alleged that Leon, of Charlotte, forged her husband's endorsement on a check to take funds to which she was not entitled from their joint investment account and filed a complaint against her husband for money owed in which she made false statements and asserted frivolous positions. Hearing has not been scheduled.

Larry G. Hoyle – 18 DHC 6

It is alleged that Hoyle, of Gastonia, made false statements to the court and engaged in conduct that was dishonest and prejudicial to the administration of justice by submitting an inappropriate designation of secured leave. It is also alleged that Hoyle falsely represented to the court that he represented a defendant for whom he took action in a criminal case at the behest of a bail bondsman. Hearing has not been scheduled.

Robert R. Schoch – 18 DHC 7

It is alleged that Schoch, of High Point, made misrepresentations to the court, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, engaged in conduct intended to disrupt a tribunal, used means that had no substantial purpose other than to embarrass and burden third persons, and engaged in conduct prejudicial to the administration of justice. Hearing has not been scheduled.

Jeffrey Dalrymple – 18 DHC 8

It is alleged that Dalrymple, of Matthews, did not reconcile his trust account, maintained inaccurate client ledgers, and commingled his personal funds with entrusted funds. Hearing is scheduled for September 18-19.

Thomas S. Hicks – 18 DHC 9

It is alleged that Hicks, of Wilmington, abandoned several clients and did not return unearned fees when he was suspended by the DHC and did not respond to the State Bar. Hearing has not been scheduled.

Cindy Huntsberry – 18 DHC 10

It is alleged that Huntsberry, of Smithfield, violated numerous trust accounting rules. Hearing has not been scheduled.

James Goard – 18 DHC 11

It is alleged that Goard, of Charlotte, was convicted of DWI, advised and assisted an individual in drafting an affidavit while his law license was suspended, made misrepresentations to a client, and did not respond to the Grievance Committee. Hearing is scheduled for November 15-16.

Wendelyn R. Harris – 18 DHC 14

It is alleged that Harris, of Virginia and formerly of Raleigh, submitted a false order to the DMV on which she had forged a judge's signature, that Harris thereafter blamed her assistant for these actions, and that her assistant was criminally prosecuted and convicted of forgery at a trial in which Harris testified falsely. Hearing has not been scheduled.

Joseph Eric Altman – 18 DHC 15

It is alleged that Altman, of Rockingham, did not correct improper procedures discovered in 2008 and 2017 random audits of his trust account. It is also alleged that Altman disclosed confidential client information to a jury without his client's permission, resulting in a mistrial, and that he spoke to a prospective client he knew was represented by counsel without consent of the prospective client's counsel. Hearing has not been scheduled.

George L. Collins – 18 DHC 16

It is alleged that Collins, of Jacksonville, wrote a will for a client that made him the executor of her estate and, upon the client's death, charged the estate \$750.00 per hour until collecting over \$250,000.00 from the estate, thereby collecting an illegal or excessive fee. It is also alleged that, in the course of serving as the estate's executor, Collins misrepresented the services he would provide; engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation; knowingly made a false statement to the Grievance Committee; committed perjury; made a false statement of material fact to a tribunal; failed to properly maintain and disburse fiduciary funds; engaged in embezzlement; and engaged in conduct prejudicial to the administration of justice. Hearing has not been scheduled.

William Webb II – 18 DHC 17

It is alleged that Webb, of Raleigh, violated numerous trust account rules. Hearing has not been scheduled.

Frank Cassiano – 18 DHC 19

It is alleged that Cassiano, of Greenville, took advantage of a client in a prohibited business transaction, made false statements to his client, and made false statements to the court in the lawsuit his client filed against him. Hearing has not been scheduled.

Michael H. Griffin – 18 DHC 20

It is alleged that Griffin, formerly of Shelby and now of Florida, misappropriated entrusted funds. He is enjoined from handling entrusted funds. Hearing has not been scheduled.

Daniel Fulkerson – 18 DHC 21

It is alleged that Fulkerson, of Boone, did not timely file federal and state income tax returns and did not pay state and federal income taxes for multiple years. Hearing has not been scheduled.

Hubert N. Rogers, III – 18 DHC 22

It is alleged that Rogers, of Lumberton, violated several trust accounting rules. Hearing has not been scheduled.

Bernell Daniel-Weeks – 18 DHC 23

It is alleged that Daniel-Weeks of Durham advised a client to violate a court order, did not communicate with, neglected and abandoned multiple clients, did not refund unearned fees, and did not respond to the Grievance Committee. Hearing has not been scheduled.

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.

Pending Motions to Show Cause

Darryl G. Smith – 16DHC 28

In November 2016, the DHC suspended Smith for three years for trust account mismanagement. The suspension was stayed for three years, conditioned upon Smith's compliance with numerous conditions. In January, the State Bar sought an order to show cause, alleging that Smith had failed to comply with the initial audit requirement of the order of discipline. Hearing was continued and has not been rescheduled.

Pending Surrenders to the Council

James M. Shelton of Burlington is expected to surrender his license to the Council this quarter. Shelton submitted an affidavit acknowledging that he misappropriated entrusted funds in an amount in excess of \$4000 and that he made false statements to the State Bar.

APPEALS IN DISCIPLINE CASES

Completed Appeals

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 while her license was administratively suspended. After serving two years of the suspension, she will be eligible to petition for a stay of the balance upon demonstrating compliance with numerous conditions. On February 6, the Court of Appeals affirmed in a published opinion. The OOC represented the State Bar.

Pending Appeals

NCSB v. Christopher Livingston - 15 DHC 15

In July 2016, the DHC suspended Livingston, of Bladen County, for five years. After he serves two years of the suspension, he will be eligible to petition for a stay of the balance upon demonstrating compliance with numerous conditions. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. On December 19, 2017, the Court of Appeals affirmed in a published opinion. Livingston appealed to the Supreme Court and petitioned for discretionary review. The State Bar has moved to dismiss the appeal and to deny discretionary review. The OOC represents the State Bar.

Scott S. Dorman – 16 DHC 26

In September 2017, the DHC disbarred Dorman of Las Vegas, Nevada. The DHC concluded that Dorman committed a criminal act, embezzlement, that reflects adversely on his honesty, trustworthiness or fitness, engaged in conduct involving dishonesty, deceit, or misrepresentation, did not deposit entrusted funds into a trust account, engaged in conduct prejudicial to the administration of justice, neglected and did not communicate with clients, did not respond to the Grievance Committee and gave legal advice to an unrepresented opposing party. He gave notice of appeal on October 16, 2017. The transcript has been delivered but Dorman did not timely serve a proposed record on appeal. The State Bar will move to dismiss. The OOC represents the State Bar.

Robert N. Weckworth, Jr. – 16 DHC 22

In October 2017, the DHC censured Greensboro attorney Robert Weckworth. The DHC concluded that he communicated with a represented adverse party and had improper *ex parte* communications with a judge. Weckworth gave notice of appeal on November 17, 2017. His proposed record on appeal is due May 14.

Trust Accounting Compliance Program

Forty-five lawyers have successfully completed the TAC Program since its inception. Peter currently supervises eleven participants. He continues to review random audits to evaluate potential candidates for the program.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 21 new files this quarter. The committee will address 20 files at its April meeting.

Five proposed prepaid legal services plans submitted applications for registration this quarter. Three of those plans were registered: Complete Legal Plan, 17PP04, was registered upon its resubmission after a denial last quarter; NC Police Benevolent Legal Benefit Plan, 18PP01, was registered on its first application; UAW-FCA-Ford-General Motors Legal Services Plan, 18PP04, was registered on its first application. Staff counsel has sent follow-up inquiries to the two remaining proposed plans asking for more information: Legal Plus Plan, 18PP02; and Gun Owners Supplement, 18PP03. Seven amendments were submitted or reviewed this quarter; upon review, five of these amendments were accepted while two were denied. An amendment to Veritas, 14PP03, was denied this quarter. An amendment to Legal Club of America, 03PP11, was also denied this quarter. After review, counsel accepted amendments to University Student Legal Services, 02PP02; AOPA, 02PP05 (2 amendments); US Law Shield, 16PP01; and Carolina Student Legal Services, 02PP03.

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.

Pending, Recently Completed and Contemplated Authorized Practice Litigation

Capital Associated Industries, Inc. v. Josh Stein 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, MDNC). CAI is a trade association consisting of 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 opining that doing so would violate North Carolina's statutory prohibitions against the unauthorized practice of law. CAI sought a declaration that N.C. Gen. Stat. §§ 84-4 and 84-5 violate the United States and North Carolina constitutions as applied to it and sought an injunction prohibiting the original defendants from enforcing the statutes against it. CAI did not seek damages but did seek attorney fees, "disbursements" and costs. The court allowed the State Bar to intervene. On September 19, 2017, the court granted summary judgment in favor of the State Bar on all claims. CAI appealed to the Fourth Circuit Court of Appeals. Oral argument will not occur before September 2018. Van Laningham Duncan represents the State Bar.

North Carolina State Bar v. Michael Asen. The Executive Committee authorized the Office of Counsel to file a lawsuit against Michael Asen, a New York attorney who offers to provide legal services in North Carolina to retail stores that have been victimized by shoplifters. The parties are negotiating a consent order.

North Carolina State Bar v. Freedom Debt Relief. The Executive Committee authorized the Office of Counsel to file a lawsuit against Freedom Debt Relief, a California business that offers debt adjusting to consumers. Freedom Debt relief has been sued in federal court in California by the Consumer Finance Protection Bureau (CFPB). The State Bar is monitoring that suit before pursuing the authorized claims.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Christopher Livingston v. North Carolina State Bar and 13th Judicial District Bar (US District Court for the Eastern District of NC). Livingston alleges that he was required to pay mandatory dues to the 13th Judicial District Bar, that such dues were unnecessary, and that the dues were used for purposes with which he disagreed. He purports to assert claims under 42 U.S.C. §§ 1983 and 1988 for injunctive relief and claims for actual and punitive damages for alleged violations of the Fifth and Fourteenth Amendments to the United States Constitution and the Law-of-the-Land and Equal Protection clauses of the North Carolina constitution. The State Bar was served with the complaint on April 5, 2018.

In Re Phillip Entzminger (Pitt County Superior Court). The Pitt County Superior Court issued an order for Entzminger, an assistant district attorney in Pitt County, to show cause why he should not be held in criminal contempt and why he should not be disciplined for violating the Rules of Professional Conduct. The show cause order alleged that Entzminger filed a document that showed disregard for the dignity of the court, demonstrated undignified and discourteous conduct that was degrading to the court and that bred disrespect for the court and the legal profession, and made false statements to the court. The court appointed the State Bar to prosecute.

Lena Watts-Robinson v. North Carolina State Bar and Disciplinary Hearing Commission (Wake County Superior Court). Watts-Robinson was disbarred by the DHC on December 4, 2014. On December 1, 2017, she filed a lawsuit against the State Bar and the DHC alleging negligent misrepresentation and negligent infliction of emotional distress, asserting that the State Bar was negligent in its argument before the DHC and that the DHC was negligent in its order of discipline. Motions to dismiss are pending. The Office of Counsel represents the State Bar and the Attorney General represents the DHC.

Richard Polidi v. Colon Willoughby et al (Wake County Superior Court). Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. He filed this action in July 2017 against Katherine Jean in her official and individual capacities, against Colon Willoughby in his official and individual capacities, and against many others. It is unclear whether Polidi sued Colon Willoughby in his official capacity as the former elected district attorney of Wake County or in his official capacity as a former State Bar councilor and current State Bar officer. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served Willoughby or Jean.

Richard Polidi v. Carmen Bannon (Wake County Superior Court). Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. In July 2017, he filed this action Deputy Counsel Carmen Bannon, in her official and individual capacities. Polidi makes vague, generalized allegations relating to his decision to surrender his law license and consent to be disbarred. He has never served Bannon.

James Ronald Peggs v. North Carolina State Bar (NC Industrial Commission). This is a purported tort claim against numerous defendants. Peggs identifies himself as trustee of a purported trust formed in an effort to defeat a foreclosure. Peggs alleges 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. He alleges that the clerk of court and lawyers for the trustee were agents of the State Bar but alleges no facts that could sustain that theory. Peggs alleges no acts or omissions by the State Bar. The deputy commissioner dismissed the complaint on January 12, 2017. The Full Commission affirmed on September 21, 2017. Peggs appealed but did not perfect the appeal. The State Bar's motion to dismiss the appeal is pending before the Full Commission. The Attorney General represents the State Bar.

HGGLBT International Trust v. State of North Carolina et al (NC Industrial Commission). This is a purported tort claim against numerous defendants. HGGLBT is a purported trust formed in an effort to defeat a foreclosure. HGGLBT alleges 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. HGGLBT alleges that another defendant is licensed to practice law in North Carolina and is therefore an agent of the State Bar but alleges no facts that could sustain that theory. HGGLBT alleges no acts or omissions by the State Bar. The State Bar's motion to dismiss is pending before the deputy commissioner. The Attorney General represents the State Bar.

Ballentine International Express Trust/Trustee Board by Trustee v. State of North Carolina et al (NC Industrial Commission). This is a purported tort claim against numerous defendants. Ballentine is a purported trust formed in an effort to defeat a foreclosure. Ballentine alleges 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. Ballentine alleges that two

defendants are agents of the State Bar because they are licensed to practice law in North Carolina but alleges no facts that could sustain that theory. Ballentine alleges no acts or omissions by the State Bar. The deputy commissioner dismissed all claims against all defendants on his own motion. The Full Commission held that the deputy commissioner lacked authority to dismiss the claim against the State Bar on his own motion and remanded to the deputy commissioner. Meanwhile, the petitioner appealed dismissal of the claims against the other defendants to the North Carolina Court of Appeals. The Court of Appeals has not ruled. The deputy commissioner granted the State Bar's motion to dismiss but the Full Commission has not yet reviewed that decision. The Attorney General represents the State Bar.

Japheth Matemu v. North Carolina State Bar (US District Court for the Eastern District of North Carolina). Matemu was a respondent in a grievance. The Grievance Committee gave Matemu notice that it was issuing a reprimand to him for engaging in professional misconduct. On March 20, 2017, Matemu filed this complaint seeking declaratory and injunctive relief to prohibit the State Bar publishing a reprimand against him. Also on March 20, 2017, Matemu filed a motion for temporary restraining order and preliminary injunction. On March 21, 2017, the court denied the motion for TRO and preliminary injunction and allowed Matemu twenty-one days in which to show cause why the court should not dismiss the case under *Younger v. Harris*, 401 U.S. 37 (1971). On March 21, 2017, Matemu filed a notice of voluntary dismissal without prejudice and did not refile within one year.

Valerie Arroyo v. North Carolina State Bar (NC Office of Administrative Hearings). The Grievance Committee dismissed a grievance filed by Arroyo. Arroyo filed a petition for contested case hearing alleging that the State Bar deprived her of due process because the Grievance Committee did not render a decision favorable to her position. OAH dismissed the claim on December 29, 2017. Arroyo did not appeal. The Attorney General represented the State Bar.

Kareem Abdullah Kirk-Bey v. North Carolina State Bar (NC Office of Administrative Hearings). The Grievance Committee dismissed a grievance filed by Kirk-Bey. Kirk-Bey filed a petition for a contested case hearing alleging that the Grievance Committee did not take the action he desired. Kirk-Bey did not comply with the first and second orders for prehearing statement. OAH dismissed the claim on February 7, 2018. Kirk-Bey did not appeal. The Attorney General represented the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 37 new claims and 10 claims for reconsideration on the agenda for the Board's April 19 meeting. Two lawsuits are pending in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the CSF.

Disbursement Cases

This quarter, the OOC filed one motion in Superior Court for permission to disburse funds from the trust account of a disbarred lawyer. The OOC closed eleven files that did not require further court action.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyer **Douglas M. Strout** of Jacksonville and **James E. Snyder** of Lexington who is currently unavailable to clients.

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

Appeals in Other Litigation in the State and Federal Courts

Completed Appeals

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 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. On April 3, 2018, the Court of Appeals affirmed the trial court's conclusion that Boyce does not have standing to bring his claim against the State Bar. The Court also held that Boyce does have standing to seek a declaratory judgment that the Superior Court has concurrent jurisdiction over attorney discipline, and remanded to the trial court for further proceedings. The State Bar was represented by Parker Poe Adams and Bernstein in the trial court and was represented by the Office of Counsel on appeal.

Pending Appeals

There are no other pending appeals in the state and federal Courts.

Legislative Liaison

The State Bar continues to monitor and engage with the North Carolina General Assembly through its legislative liaison. A joint select committee on judicial redistricting and reform continues to meet in advance of the start of the legislative "short" session in May.

Personnel

Brian was chosen as the new Director for Ethics and Special Programs and will move to that position effective July 1, 2018. Peter was chosen as the new Assistant Director and Director for Management, Finance, and Communications and will move to that position effective October 1, 2018. They will be greatly missed by everyone in OOC.

Miscellaneous

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.

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.

Carmen continues to serve as the OOC's liaison to the judiciary. This quarter, she gave presentations at the National Organization of Bar Counsel's midyear meeting in Vancouver, Wake Forest Law School, and the Conference of District Attorneys New Prosecutors' School. 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.

Jennifer volunteers as a judge for the Capital Area Teen Court diversion program. She also judges mock trial competitions and judged a session of a regional tournament for the American Mock Trial Association hosted by Carolina Mock Trial at UNC Chapel Hill on February 24.

Brian continues to serve on the Board of Advisors for the First Amendment Law Review at UNC School of Law and as chair of the 10th JD/WCBA Memorial Committee. He teaches legal research and writing at Campbell Law and is a frequent guest lecturer at other law schools. In March, Brian presented at the State Bar's District Bar Meeting in Southern Pines. In February, Brian received the Wake County Bar Association's Professionalism Spotlight Award.

Maria regularly presents at the NC Bar Association's Professionalism for New Attorneys programs. Maria also presented at the Bar Association's Starting Out Solo event in March.

Katherine continues to serve on the NCBA Professionalism Committee.