

THE NORTH CAROLINA STATE BAR

# JOURNAL

WINTER  
2018



## IN THIS ISSUE

Our New President, G. Gray Wilson *page 5*

One Last Outlook *page 8*

Recovering from Disaster *page 20*





Share Your Thoughts and  
Ideas with the Bar

The *Journal* wants articles  
of interest to the legal  
community. Submit your work  
or suggestions for publication.  
Contact the editor at  
[jduncan@ncbar.gov](mailto:jduncan@ncbar.gov).



THE  
NORTH CAROLINA  
STATE BAR  
**JOURNAL**

**Winter 2018**  
*Volume 23, Number 4*

**Editor**  
Jennifer R. Duncan

© Copyright 2018 by the North Carolina State Bar. All rights reserved. Periodicals postage paid at Raleigh, NC, and additional offices. Opinions expressed by contributors are not necessarily those of the North Carolina State Bar. POSTMASTER: Send address changes to the North Carolina State Bar, PO Box 25908, Raleigh, NC 27611. The *North Carolina Bar Journal* invites the submission of unsolicited, original articles, essays, and book reviews. Submissions may be made by mail or email (jduncan@ncbar.gov) to the editor. Publishing and editorial decisions are based on the Publications Committee's and the editor's judgment of the quality of the writing, the timeliness of the article, and the potential interest to the readers of the *Journal*. The *Journal* reserves the right to edit all manuscripts. The *North Carolina State Bar Journal* (ISSN 10928626) is published four times per year in March, June, September, and December under the direction and supervision of the council of the North Carolina State Bar, PO Box 25908, Raleigh, NC 27611. Member rate of \$6.00 per year is included in dues. Nonmember rates \$10.73 per year. Single copies \$5.36. The *Lawyer's Handbook* \$16.09. Advertising rates available upon request. Direct inquiries to Director of Communications, the North Carolina State Bar, PO Box 25908, Raleigh, North Carolina 27611, tel. (919) 828-4620.

ncbar.gov  
Follow us at:  
Twitter: @NCStateBar  
Facebook: facebook.com/NCStateBar



# Contents

## FEATURES



- 5 An Interview with the State Bar's New President, G. Gray Wilson**



- 8 One Last Outlook—An Interview with Retiring Executive Director L. Thomas Lunsford II**



- 12 Summer Session: The Morganton Decisions, 1847-1861**

*By Thomas P. Davis*

- 18 Counselor**

*By Ryan Stowe*

- 20 Recovering from Disaster: "Helpers" in the Legal Community Respond**

*By Mary Irvine*

- 22 Running Man**

*By G. Gray Wilson*

# Contents

## DEPARTMENTS

- 24 The Disciplinary Department
- 36 Pathways to Wellbeing
- 28 Lawyer Assistance Program
- 30 IOLTA Update
- 32 Legal Specialization
- 34 Legal Ethics
- 36 Trust Accounting

- 38 Proposed Ethics Opinions

- 39 Rule Amendments

## BAR UPDATES

- 41 In Memoriam
- 42 State Bar Swears In New Officers
- 43 Fifty-Year Lawyers Honored
- 44 Resolution of Appreciation

- 45 Client Security Fund

- 46 Law School Briefs

- 53 Annual Reports of Boards

- 50 Distinguished Service Award

- 51 February Bar Exam Applicants

- 54 Selected Financial Data

## Officers

G. Gray Wilson, Winston-Salem  
President 2018-2019  
C. Colon Willoughby Jr., Raleigh  
President-Elect 2018-2019  
Barbara R. Christy, Greensboro  
Vice-President 2018-2019  
Alice Neece Mine, Chapel Hill  
Secretary-Treasurer  
John M. Silverstein, Raleigh  
Past-President 2018-2019

## Councilors

### By Judicial District

- 1: C. Everett Thompson II, Elizabeth City
- 2: G. Thomas Davis Jr., Swan Quarter
- 3A: Charles R. Hardee, Greenville
- 3B: Debra L. Massie, Beaufort
- 4: Robert W. Detwiler, Jacksonville
- 5: W. Allen Cobb Jr., Wilmington
- 6: W. Rob Lewis II, Ahoskie
- 7: Randall B. Pridgen, Rocky Mount
- 8: C. Branson Vickory III, Goldsboro
- 9: Paul J. Stainback, Henderson
- 9A: Alan S. Hicks, Roxboro
- 10: Heidi C. Bloom, Raleigh  
Walter E. Brock Jr., Raleigh  
Nicholas J. Dombalis II, Raleigh  
Theodore C. Edwards II, Raleigh  
Katherine Ann Frye, Raleigh  
Robert Rader, Raleigh  
Donna R. Rascoe, Raleigh  
Warren Savage, Raleigh
- 11A: Eddie S. Winstead III, Sanford
- 11B: Marcia H. Armstrong, Smithfield
- 12: Lonnie M. Player Jr., Fayetteville

- 13: Michael R. Ramos, Shallotte
- 14: Dorothy Hairston Mitchell, Durham  
William S. Mills, Durham
- 15A: Charles E. Davis, Mebane
- 15B: Charles Gordon Brown, Chapel Hill
- 16A: Terry R. Garner, Laurinburg
- 16B: David F. Branch Jr., Lumberton
- 16C: Richard Buckner, Rockingham
- 17A: Matthew W. Smith, Eden
- 17B: Thomas W. Anderson, Pilot Mountain
- 18: Stephen E. Robertson, Greensboro
- 18H: Raymond A. Bretzmann, High Point
- 19A: Herbert White, Concord
- 19B: Clark R. Bell, Asheboro
- 19C: Darrin D. Jordan, Salisbury
- 19D: Richard Costanza, Southern Pines
- 20A: John Webster, Albemarle
- 20B: H. Ligon Bundy, Monroe
- 21: Michael L. Robinson, Winston-Salem  
Kevin G. Williams, Winston-Salem
- 22A: Kimberly S. Taylor, Taylorsville
- 22B: Sally Strohacker, Mocksville
- 23: John S. Willardson, Wilkesboro
- 24: Andrea N. Capua, Boone
- 25: M. Alan LeCroy, Morganton
- 26: David N. Allen, Charlotte  
Robert C. Bowers, Charlotte  
A. Todd Brown, Charlotte  
Mark P. Henriques, Charlotte  
Dewitt McCarley, Charlotte  
Nancy Black Norelli, Charlotte  
Eben T. Rawls, Charlotte
- 27A: Timothy L. Patti, Gastonia

- 27B: Rebecca J. Pomeroy, Lincolnton
- 28: Anna Hamrick, Asheville
- 29A: H. Russell Neighbors, Marion
- 29B: Christopher S. Stepp, Hendersonville
- 30: Gerald R. Collins Jr., Murphy

## Public Members

Thomas W. Elkins, Raleigh  
Dr. Joseph E. Johnson, Greensboro  
Mohan Venkataraman, Morrisville

## Executive Director

L. Thomas Lunsford II

## Assistant Executive Director

Alice Neece Mine

## Counsel

Katherine Jean

## Editor

Jennifer R. Duncan

## Publications Editorial Board

Darrin D. Jordan, Chair  
Nancy Black Norelli, Vice Chair  
Phillip Bantz (Advisory Member)  
Richard G. Buckner  
Andrea Capua  
Margaret Dickson (Advisory Member)  
John Gehring (Advisory Member)  
Ashley London (Advisory Member)  
Stephen E. Robertson  
Christopher S. Stepp  
John Webster

# An Interview with the State Bar's New President, G. Gray Wilson

**Q: What can you tell us about your upbringing?**

I grew up in Boone, North Carolina, the son of a physician who was the last of a dying breed—the general practitioner. I lived through the blizzard of 1960 (23 days out of school), after which nothing really seemed that bad any more. I have one sister and two brothers, and all three of us boys attended Davidson College over a period of six years, but both of my brothers became doctors. I was the black sheep who decided to go to law school because I liked to write and argue more than the sight of blood.

**Q: When and how did you decide to become a lawyer?**

I decided to become a lawyer sitting around the dinner table as a boy arguing with my family, and a trial lawyer was the only kind I was ever interested in becoming. There were a lot of storytellers in the mountains, and occasionally some of them were truthful, which I found fascinating.

**Q: Can you tell us how your career as a lawyer has evolved?**

When I finished law school (I could not get into a good school in North Carolina so I went out of state to Duke), I landed a job with what is now the Kilpatrick Townsend firm in Winston-Salem. I stayed there for 15 years and watched the firm grow from 20 to 120 lawyers before I decided that was too big and struck out on my own with three other attorneys. I had my own firm for over 25 years until I decided I needed to get a retirement plan in place, primarily for my three younger partners. The Nelson Mullins office in Winston-Salem turned out to be a perfect fit, and I have wondered why everyone has been so delightful to work with over the past year since we merged. How I blundered into such



*G. Gray Wilson is sworn in as president by Supreme Court Justice Mark Martin, with his wife, Cheryl, looking on.*

a great practice situation is beyond me, but I plan to stay here as long as they continue to tolerate me.

**Q: How and why did you become involved in State Bar work?**

My first leadership position was chair of the Forsyth County Young Lawyers Association in 1980-81. I then became active in the North Carolina Bar Association because my first firm had several past presidents on the roster. I was chair of the Young Lawyers Division in 1986-87, then president of the Bar Association in 2004-05. I had served as an advisory member of the Ethics Committee of the State Bar during the interim. After I returned to the full-time practice of law in 2006, one of our State Bar councilors suddenly resigned, prompting the elec-

tion of a replacement. I threw my name into the hat after several others declared their candidacy, survived at least one run-off, and was elected to the vacant seat along with now Past President Jim Fox.

**Q: What has your experience on the Bar Council been like and how has it differed from what you anticipated?**

The Bar Council is an entirely different organism from the Bar Association. I was assigned to one of the Grievance Subcommittees outright, and the deliberations within that body were a sea change from my former moorings in other professional organizations. Debate in a number of committee assignments was vigorous but always respectful, and I met a cross-section of fellow councilors from across the state who shared

the common purpose of protecting the public from unsavory members of the profession. I also became acquainted with an all-star cast of staff counsel and management personnel who were utterly devoted to self-regulation of the profession.

**Q: How has the work of the State Bar changed since you first became involved?**

Frankly, the job has gotten tougher over the past decade, as the State Bar has withstood assaults from a number of quarters, such as online legal service providers, creative unauthorized practice forays in this jurisdiction, and occasional friction with the General Assembly. It would be prudent for me to stop here.

**Q: Can you tell us about the most difficult issue you've faced as an officer or member of the Bar Council?**

I sat on the Grievance Committee for all but one year of my nine-year term, serving as a subcommittee chair for several of those years. I struggled mightily with finding a balance between the rationale for discipline and a parsing of those violations that were the innocent product of ignorance versus malevolent intent.

**Q: What do think are the biggest issues currently facing the council?**

Technology would be at the top of the list, in so many ways, from online providers to LinkedIn and other social media, to referral services, to cyber security, to lawyer advertising. We cannot regulate the Internet, but sometimes I wish we could. The public wants access to services out there that may not always be in their best interest, but we must change with the times to try to accommodate alternative structures that fit within the purview of the First Amendment.

**Q: Some years ago you served as president of the North Carolina Bar Association and now you are serving as president of the State Bar. It appears that you are the first person to ever serve in both capacities. What did you learn as president of the Bar Association that may help you succeed in your current office? How do you see the two organizations relating to one another? Are there ways in which the Bar Association and the State Bar can better cooperate to assist lawyers and protect the public?**

I am not the first to hold both offices. Louis Poisson, grandfather of former counselor Fred Poisson (a Davidson College classmate of mine), was one of the founders of the State Bar, served as Bar Association president

in 1946, then as State Bar president in 1951. He was the first member of the ABA House of Delegates from this state. What I learned as Bar Association president is that its mission is not really that different from that of the State Bar once you get past the statutory mandate of this state agency. Both organizations strive to make the profession better by helping lawyers do their job ably, with counseling services, future planning committees, and education and training beyond law school. The synergy is there, but has not always been tapped to its full extent. It is my fervent hope that this will change, and that the cooperation between these two fine organizations will improve in coming years.

**Q: You currently chair the Board of Directors for Lawyers Mutual. How has that experience informed your service on the Bar Council?**

And speaking of synergy, Lawyers Mutual has been working closely with the State Bar to provide training at no charge to attorneys across the state with regard to the relatively new trust account rules and the perils of cyber fraud. Sitting on the Board of Directors for the past dozen years, especially the claims committee reviewing mistakes lawyers make, has made me a better lawyer. It has also taught me that lawyers who practice ethically make fewer mistakes.

**Q: Most lawyers realize that you literally "wrote the book" on civil procedure in our state, cementing your reputation as a scholar and a teacher. Academically speaking, do you think the lawyers of North Carolina have a sufficient understanding of the rationale for and the importance of self-regulation?**

I consider my treatise on civil procedure to be a great cure for insomnia, but beyond that, I hope it provides some guidance to the trial practitioner on how to navigate a lawsuit without crashing and burning. As for self-regulation, I fear that much of the bar of this state has little appreciation of the benefits and privileges we enjoy through self-regulation. I can assure you that there are others out there without a law license ready to regulate us with abandon should we fail to perform our work properly.

**Q: A couple of years ago you organized a very successful CLE program at the State Bar concerning law and the humanities. Why is it important that lawyers be exposed to and mindful of great literature and philosophy?**

I am proud of the Law and Humanities

seminar program created with the invaluable assistance of David Hostetler. Knowledge is power, and an understanding of the classics in Western civilization provides a sound foundation for communicating with those who come from all walks of life in a courtroom, especially in a jury setting. There will always be another opponent out there smarter than you, but he or she may not be better educated, and learning has always been the curse of my family.

**Q: Over the past two years, your predecessors have put a great deal of emphasis on increasing the State Bar's "engagement" with its constituent lawyers and various other "stakeholders." Why is that important and what would you like to see happen in that regard?**

Transparency is key to the ongoing mission and perhaps survival of this self-regulating agency, one that is often misunderstood by the public. The cure for that malaise is education (see the previous question), and the more we can present what we do and how we do it in the public domain, the greater understanding there will be about the critical value of our mission.

**Q: The State Bar is still embroiled in litigation with Capital Associated Industries in regard to CAI's desire to use its own house counsel to represent its members. Why is the State Bar involved? What is the status of the case presently?**

That case was dismissed on summary judgment by Judge Loretta Biggs in the Middle District of North Carolina and has been appealed to the Fourth Circuit. Oral arguments are scheduled in the near future, and we expect to have a decision at or shortly after year end. Further this deponent sayeth not.

**Q: Programmatically speaking, what do you hope to accomplish while president of the North Carolina State Bar?**

I hope to promote better ties with the North Carolina Bar Association through a joint committee set up with the assistance of its current president, Jackie Grant. Public education down at the local district bar level remains a priority. We are looking into a means to provide universal and ready access to every courthouse in the state for any attorney who shows up for business. We will also be monitoring the rollout of the universal bar examination for the first time in February 2019.

**Q: The State Bar recently appointed for the**





## Fastest smartest malpractice insurance. Period.

800.906.9654  
GilsbarPRO.com

first time a member of its staff to act as “legislative liaison.” Does this foreshadow the agency’s increased involvement in legislative matters? If so, how can the State Bar and its membership be most effective in promoting its agenda?

While strictly respecting our function as a regulatory agency, the State Bar needs to build relationships with our legislators, particularly our lawyer legislators. Recently promoted Peter Bolac will take the lead, as he has so ably in the past, at keeping us and the General Assembly informed on issues directly affecting our mission, and this effort at liaison will be pursued at the local district bar level as well.

**Q: Tom Lunsford, the State Bar’s executive director since 1992, will be retiring at the end of 2018 and will be succeeded by the long-time assistant director, Alice Mine. Do you anticipate an easy transition? How will things be different under the “Mine Administration”?**

There could not have been an easier decision than the elevation of the multi-talented Alice Mine to replace our legendary Executive Director Tom Lunsford. In fact, we had to find two other staff members to take her place, as she has worn so many hats

over the years as assistant director. The transition should be seamless, the only caveat being that I hope she is prepared to match the wit and good humor that Mr. Lunsford has displayed with his regular piece in the *Bar Journal*, not to mention the roasting of the next outgoing president.

**Q: If you had not chosen to become a lawyer, what do you think you would have done for a living?**

My mother was a cast-iron Calvinist desperate for me to join the clergy, but since boyhood my passion has been writing, and that means fiction, not multi-volume legal treatises. So I could have been a starving artist, but chose the law in order to earn a living and continue writing in a number of contexts.

**Q: Tell us about your family.**

I already mentioned my physician brothers, and I have a sister who is also overeducated. My wife Cheryl, a certified yoga instructor, and I have been married over 17 years and have a blended family of six children, all of whom were teenagers when I was Bar Association president, a daunting challenge. The eldest, Trover, is a social worker/psychologist in Chicago. Lindsey is a mad artist married to a Dartmouth man who runs an automotive software company in Charlotte.

Hailey works for a couple of other attorneys in the Nelson Mullins office I joined a year ago in Winston-Salem. Jared is employed with Central Coca-Cola Bottling Company in Charlotte. Harper is in his third year of medical school at Wake Forest. And baby girl Claire is pursuing her Ph.D. in psychology at the University of Indiana in Bloomington.

**Q: What do you most enjoy doing when you’re not representing clients or working for the State Bar?**

Reading military history (I was a reluctant guest of the US Army right after the temporary truce was declared in Vietnam), running, and flying. I have also been privileged since my youth to travel extensively around the planet, but there are still some far pavilions on my bucket list that I have yet to visit.

**Q: How would you like for your presidency to be remembered when the history of the State Bar is finally written?**

That I built relationships with other bar organizations (e.g., NC Bar Association, Lawyers Mutual), increased public awareness of the mission of the State Bar, and maintained a flexible and responsive approach to the challenges of technology. I would also like to write at least a chapter of such a history book. ■

# One Last Outlook—An Interview with Retiring Executive Director L. Thomas Lunsford II

*After 27 years as the North Carolina State Bar's executive director, Tom Lunsford will be retiring at the end of 2018. In a September 2017 letter to then State Bar President Mark Merritt, Lunsford advised that his decision to retire resulted from, "my desire to try to be useful in a different way in my seniority, and my feeling that, going forward, the State Bar will be best served administratively by my stepping aside in favor of someone else with more energy and a fresh perspective."*

*The State Bar Council voted to promote the agency's long-time assistant director, Alice Neece Mine, to the executive director position, and she was sworn in as the Bar's new secretary/treasurer during the State Bar's Annual Meeting on October 25.*

**Q: You grew up in Burlington. What was that like?**

Burlington was a great town to grow up in, and I am very proud to claim it as my hometown. My childhood was idyllic in a community that seemed large and somewhat exciting, but was actually small, safe, and predictable. I had nurturant parents who understood the value of education, mostly because they had had relatively little, and they sacrificed quite willingly to make sure that I and my two brothers had every chance to make good use of our talents and opportunities.

**Q: When and how did you decide to become a lawyer?**

To be honest, I think law school seemed like the path of least resistance when I was nearing the end of my undergraduate experience in Chapel Hill. I had no firm idea what I wanted to be when I grew up and very limited ambition. I did know that I was math and science-averse, and figured that if I wanted



*In 1992 L. Thomas Lunsford II was sworn in as secretary/treasurer of the North Carolina State Bar by Supreme Court of North Carolina Chief Justice James G. Exum.*

ed to avoid manual labor, I would be well-advised to trade upon my "way with words." Since law school seemed like a relatively "wordy" enterprise and I had good grades, I applied. It turned out to be a good choice for me. Not only was it language-intensive, but it prepared me for a wonderful career as a legal bureaucrat.

**Q: Tell us about your years in practice as a young lawyer before you joined the State Bar.**

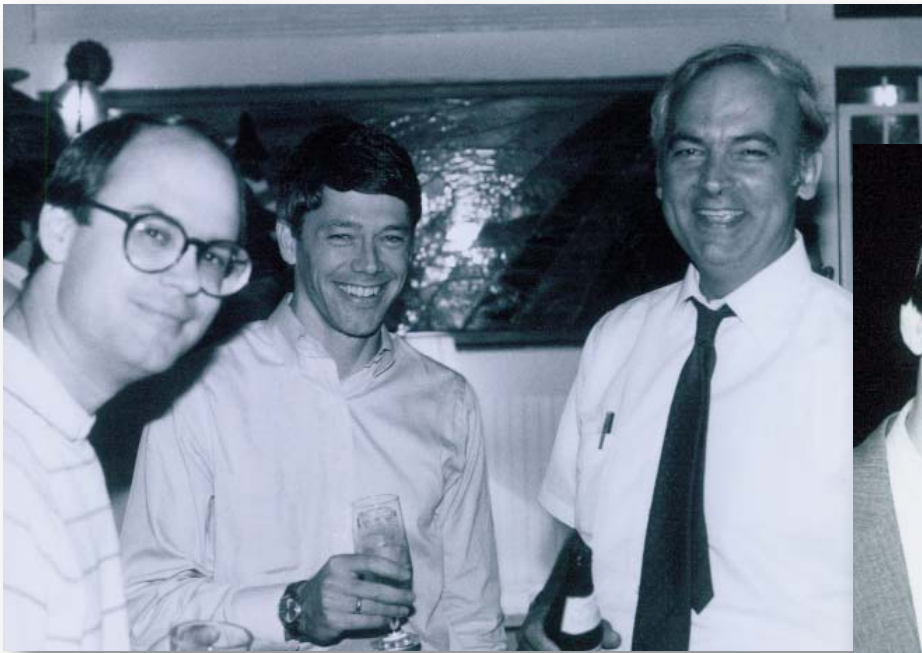
I joined a small firm back in Burlington right after law school and commenced general practice. Like most new lawyers in that era and in that kind of environment, I was serially incompetent. On Monday I was unprepared for estates and trusts, on Tuesday I was

innocent of the criminal law, on Wednesday, I was negligent in bankruptcy court, etc. For most of my similarly situated colleagues, this was not an insurmountable problem, but I hated being bad at law and wasn't very satisfied with my situation. Things came to crisis in my third year out when interest rates reached 18% and the firm's foundational real estate practice went away. The firm's partners, all of whom were terrific gentlemen, decided to economize by making me a partner so that I might share in the risk as well as the expectation of entrepreneurship. Before long I was looking for the door.

**Q: How and when did you become involved with the State Bar?**

My involvement with the State Bar pre-





*Above: Circa 1985, Tom with State Bar Counsel Root Edmonson and State Bar Councilor George Davis.*



*Above: In 1988, Tom is pictured with his long-serving executive assistant, Joyce Lindsay. Left: As a fan of the Tar Heels, Tom was delighted to have legendary UNC basketball coach Dean Smith as the speaker at the State Bar's 1997 Annual Meeting.*



dated my licensure. After my second year in law school in the summer of 1977, I was hired as the agency's very first ever law clerk. Fortunately for me, the Supreme Court decided the case of *Bates v. the State Bar of Arizona* that summer. That case, which declared that lawyer advertising was commercial speech deserving of First Amendment protection, was tremendously important to the profession. Since there was no one else handy at the State Bar that summer to come to terms with it, I was asked to

analyze the case and explain it and its implications to the State Bar's Ethics Committee. It was a heady experience, lecturing preeminent lawyers like Frank Spruill and Clifton Everett about that landmark decision, particularly since I was so obviously in over my head. But, amazingly, those incredibly accomplished lawyers treated me with same consideration and respect that they customarily afforded "real" lawyers. It was my first meaningful experience with professionalism, and I will never forget it.

After I decided to leave private practice, I called the State Bar's then executive director, Bobby James, for whom I had worked as a clerk. As luck would have it, an opening on the staff had just developed and he decided to take another chance on me. It was my great good fortune. I started on February 1, 1981, as a staff lawyer with a disciplinary caseload and responsibility for counseling the Ethics Committee along with Norma Harrell of the Attorney General's Office. In a fairly short period of time, I transitioned from incompetence as a general practitioner to relative expertise in the field of professional responsibility. I was much happier and soon realized I had found my calling.

**Q: How has the work of the State Bar changed over the years since you first became involved?**

I think the biggest change relates to the higher "profile" we've attained in recent years. For most of my tenure, the State Bar was able to go about its work in relative obscurity. Our





*Above: Tom and former State Bar presidents participate in the new State Bar building's "topping out" ceremony, which is a builders' rite traditionally held when the last beam (or its equivalent) is placed atop a structure during its construction.*



*Below: At the groundbreaking for the new North Carolina State Bar headquarters in 2011. From Left: Raleigh Mayor Charles E. Meeker, State Bar Vice-President M. Keith Kapp, Former State Bar President M. Ann Reed, Immediate Past State Bar President Barbara B. Weyher, Chief Justice Sarah Parker, State Bar President Anthony S. di Santi, State Bar President-Elect James R. Fox, State Bar Executive Director Tom Lunsford.*



*After touring the State Bar's new headquarters, Tom is pictured with (from left to right) Former State Bar President M. Keith Kapp, Former North Carolina Governor Pat McCrory, and the governor's legal counsel, Robert C. Stephens.*

efforts generally attracted very little public attention and even our members were relatively indifferent to what we were doing. Most people, including all of the media and many of the lawyers, tended to confuse us with the North Carolina Bar Association. In recent years, though, we have been discovered and have had to become mindful of public, political, and professional relations to a much greater extent than before. Of course, it's a good thing to be noticed, to be accountable,

and to be appreciated. But sometimes when the TV cameras are outside my door, I wistfully recall anonymity.

**Q: What were some of the challenges you've faced at the State Bar?**

Personally, I have been challenged by feelings of inadequacy and ill-preparation. After all, there were no law school courses on bar management, and I have never been entirely sure of the difference between debits and credits. Even so, I seem to have a gift for

amateur theatrics and appear to have successfully impersonated a credible executive for nearly three decades. That's no small thing. I suspect your question, though, may have been intended to query me in regard to challenges faced by the agency while I have been in charge. And there have been some. As a self-regulating regulator, the State Bar Council is continually challenged to subordinate self-interest. I am proud to say, however, that in virtually every instance of which I have been aware, councilors have recognized and sustained the primacy of the public's interest. Indeed, I think self-regulation has been successful in large part because the lawyers serving on the council have been ever-mindful that the primary purpose of the State Bar is protection of the public. Although it hasn't been a big problem lately, councilors who served during the first 25 years or so of my tenure on the staff were hard-pressed to make appropriate regulatory accommodation of the developing constitutional law concerning advertising. In those days, the feeling that advertising was unprofessional was so pervasive and deeply ingrained that it was difficult to persuade members of the council that our rules concerning advertising and solicitation had to be made less restrictive. That necessary change came hard and haltingly, and for most councilors it had nothing to do with

preserving economic advantage. Rather, the opposition and intransigence sprang from the deep-seated conviction of that generation of attorneys that advertising was an anathema to professionalism and a danger to the profession. As the Ethics Committee's counsel for many years, I spent a lot of time telling people what they didn't want to hear about advertising.

**Q: What was it like working with a long line of State Bar presidents?**

I have been privileged to serve 27 different presidents, including persons who became the first female and the first African-American presidents of the State Bar. Those professional and personal relationships have been immensely gratifying to me. I have learned a great deal from each of those men and women and am honored to call them all my friends. Our Nominating Committee has done a wonderful job over the years in selecting our leaders, and the process whereby someone comes to the presidency has proven to be very beneficial to the agency. Generally speaking, a councilor isn't seriously considered for service as an officer of the State Bar until he or she has served three consecutive three-year terms on the council. By that time, candidates are fully conversant with our regulatory program, are fully convinced of the necessity and importance of our role in protecting the public, and are fully aware of the strengths and weaknesses of people like me. They respect the institution of the State Bar and its culture, and they are prepared to lead effectively and sensibly.

**Q: When and how did you become the executive director?**

I came into office in a time of scandal. In September 1992 my predecessor was found to have misappropriated funds and resigned very suddenly. I was the assistant executive director at the time and the officers asked me to take charge of the agency as interim executive director. Though somewhat overwhelmed by the responsibility, I felt that I was reasonably well qualified for the job and soon expressed my desire to be hired permanently. At the State Bar's Annual Meeting in October of 1992, the council was persuaded to offer me the position.

**Q: What do you consider your greatest personal asset as executive director, other than your ability to write irreverent essays in the *Journal*?**

I think I have pretty good judgment and perspective, and I think I can generally rec-

ognize what constitutes a "win." I believe I may have other useful talents that are more ephemeral and random. For instance, I think I have had some inexplicable and unquantifiable role in fostering a culture within the staff and the council that is uncommonly humane and productive, and I am very proud of that. I also believe that I have generally been successful in assisting the State Bar's leadership to focus on what's important, to do what makes sense and is right, and to do it by consensus. I am also convinced that my relative ignorance of management theory and best practices has served me and the agency well.

**Q: How do you feel about handing the reins over to your long-standing assistant director and successor Alice Neece Mine?**

The only aspect of this transaction that I'm entirely sure about is the promotion of Alice Mine. Alice is superbly qualified and totally deserving of the opportunity. And, perhaps more to the point, the agency, the lawyers, and the public ought to have the benefit of her inspired leadership. The only unfortunate thing about her selection at this point in time is that she and I are generationally yoked, being close to the same age. Although I wouldn't want to compare myself to Dean Smith, I do think Alice is in much the same position as Bill Guthridge when Coach Smith retired. She may have time to take us to a couple of Final Fours, but she probably won't have enough time at the helm to accomplish all that she might. In any event, though, Alice is great and choosing her was really a "no-brainer" for the State Bar. In a very real sense, she's my legacy, and I couldn't be prouder.

**Q: If you hadn't chosen to become a lawyer, what would you think you would have done for a living?**

I think I would have tried to be writer.

**Q: Tell us about your family.**

I am married to the

former Julie Ogden, also of Burlington. We were married a week before law school began during the Ford administration. An incomparable woman in every sense of the word, she is currently a member of the clinical faculty at UNC's medical school where she practices as a board certified geriatric psychiatrist. I have two sons: Thomas is a retired school teacher who is now a first-year resident in internal medicine at UNC. His wife Mignon is a member of the Bar and they are proud parents of my remarkable grandson, Gray. My younger son Joe is a CPA working with the Meritage Corporation in Austin, Texas. He's getting married in January to a classmate from Davidson, Louisa Williams, who consults with Deloitte. And my dad is still the best man in Burlington at age 93.

**Q: How would you like to be remembered when the history of the State Bar is written?**

Although I can't really claim much responsibility for this, it is very pleasing to me that virtually all of the men and women who have served as councilors during my tenure have testified publicly that their service on the council was the finest thing that they had ever done professionally. I hope to be long associated with those sentiments, at least in their minds. ■



*Tom Lunsford with the State Bar's new executive director and secretary/treasurer, Alice Neece Mine, at the State Bar's Annual Meeting in October 2018.*



# Summer Session: The Morganton Decisions, 1847-1861

BY THOMAS P. DAVIS

## INTRODUCTION

### Western Feats

North Carolina is indebted to its western peoples, according to Governor William A. Graham, for having declared independence from Great Britain in 1775.<sup>1</sup> Our state flag and our state seal have acknowledged this accomplishment for more than a century.<sup>2</sup> And North Carolina owes its western peoples gratitude, too, for having secured fairer legislative apportionment in the early 19th century. Our constitution has evidenced this achievement since the amendments of 1835.<sup>3</sup> Not only have the birth and development of the state been influenced by the western peoples of North Carolina, but so also has the history of our state's modern Supreme Court. The Court's antebellum equity jurisdiction and its summer session in Burke County demonstrate this influence.

The overarching ideal which inspired each of these feats of North Carolina's western peoples is faith in a democratic element in republican government: representation should ground government; population should determine representation; members and officers of government should stay in close touch with the people who found and tolerate it.<sup>4</sup> This short note commemorates the influence of the ideal of democracy on the establishment and development of the Supreme Court of North Carolina during its antebellum period as we celebrate the Court's 200th anniversary.

### Colonial Roots

Under the state constitution of 1776, the "supreme court of law and equity" was the highest court in North Carolina.<sup>5</sup> Early state



*Burke County Courthouse, ca. 1912. This photograph was created by L. E. Webb and submitted by R. Douglas Walker, Jr. to Picture Burke, a digital photograph preservation project of the Burke County Public Library.*

statutes recognized this court by its colonial name of "superior courts," the general assembly continuing this usage from a colonial act despite the term being omitted from the constitution.<sup>6</sup> A superior court of law sat as a court of general jurisdiction which tried causes and which heard appeals from inferior courts.<sup>7</sup> Equity jurisdiction was tacked on a few years later.<sup>8</sup> There were six superior courts of law and equity, one for each judicial district established by the general assembly. The state's three superior court judges comprised the court in each of these judicial districts. The judges were Samuel Ashe of New Hanover County, Samuel Spencer of Anson County, and James Iredell of Chowan County.<sup>9</sup> In the absence of one of these judges, the other two judges could hear argu-

ment on "demurrers, cases agreed, special verdicts, bills of exception to evidence, and motions in arrest of judgment."<sup>10</sup> In the absence of two of the judges, the remaining judge could hold court, give judgment, and award execution in all other situations.<sup>11</sup>

The administration of justice by the superior courts faltered after an act of 1790 added a fourth superior court judge, increased the number of judicial districts from six to eight, and grouped the eight judicial districts of the state into eastern and western ridings, two judges to each riding, one judge from each riding rotating to the other riding at the completion of a circuit.<sup>12</sup> With two judges hearing important questions of law, split decisions occurred.<sup>13</sup> And with different judges deciding cases on the different ridings, uni-

formity of decision was lost.<sup>14</sup> In response to these problems, the general assembly experimented with a semiannual conference of the four superior court judges.<sup>15</sup> The conference soon became a permanent court of record, at first called the “Court of Conference” and later called the “Supreme Court.”<sup>16</sup>

Such is the history of our *early* Supreme Court.<sup>17</sup> Its inspiration, though, was altered by statute 13 years after the renaming of the Court of Conference.<sup>18</sup> This statutory innovation created what one may properly call the *modern* Supreme Court, the newly-designed court having had important features in common with today’s Supreme Court.

### Statutory Innovation

The emergence of the modern Supreme Court of North Carolina began with failure and ended with compromise. Some members of the general assembly thought that a periodic conference of trial judges did not adequately address the difficulties first caused by the populist attack on the court system in 1790. During the 1817 session of the general assembly, Senator Bartlett Yancey of Caswell County reported from committee a bill concerning the Supreme Court which aimed to remedy these problems, but the bill did not pass.<sup>19</sup> Nonetheless, with Governor Branch throwing in his support at the next session of the general assembly, Senator William Gaston guided a similar bill into law which established the modern Supreme Court of North Carolina.<sup>20</sup> This bill and a supplemental bill passed into law in December 1818, while the election of the court’s clerk and the sitting of the court at its first session occurred the following month in Raleigh.<sup>21</sup>

The jurisdiction of this modern Supreme Court was innovative in two respects. First, the members of the Supreme Court would not try cases at law, which was “a wide departure from the old English system, and from that of our general government....”<sup>22</sup> As a purely appellate court of law with no duties on circuit, its members would stand at a distance from the people—at an uncomfortable distance in the opinion of the swelling ranks of pro-democracy reformers,<sup>23</sup> including reformers agitating in the under-represented western part of the state.<sup>24</sup> Second, the Court would enjoy removal jurisdiction over pending equity cases. While this removal jurisdiction compromised the vision of a purely appellate court, it did not require the members of the Court to ride circuit, and it

helped the large western counties that suffered from severe delays in the hearing of equity suits.<sup>25</sup>

By the success of this compromise concerning jurisdiction, William Gaston, senator for the eastern county of Craven, became the founder of the modern Supreme Court and began a friendship with the representatives of the state’s western counties.

### Democratic-Republican Discontent

Even with this compromise accepted and the modern Supreme Court established, distrust of the fledgling institution festered throughout the 1820s and into the 1830s. Session after legislative session, democracy-minded reformers in the general assembly attacked the Court and the salary of its members.<sup>26</sup> After all, for most litigants the Court sat remotely, never venturing from its quarters in the North Carolina State House on Union Square in Raleigh, and it viewed cases at law through the sterile lens of their records. Furthermore, the Court cabined its judgment by precedents developed in accordance with an academic, systematized, 18th-century view of our inherited common law. No Benthamite-reformers were Chief Justice John Louis Taylor, Judge John Hall, and Judge Leonard Henderson.<sup>27</sup> That the Court engaged in particularized justice in suits in equity<sup>28</sup> did not remedy its distance from the people or its reactionary bent. And when the widely-admired Chief Justice Henderson died in 1833, common law-adherent though he was, the Court’s very survival was put in question.<sup>29</sup>

Doubt was quickly laid to rest by the election of William Gaston to a seat on the Court, and by the selection of Thomas Ruffin as the Court’s third chief justice.<sup>30</sup> The Court’s reading of the separation of powers and the law of the land provisions of the North Carolina constitution in *Hoke v. Henderson* also added to the security of the Court,<sup>31</sup> as did amendments by the state constitutional convention of 1835, which increased the independence of the judiciary.<sup>32</sup> Over the next ten years, Chief Justice Thomas Ruffin, Judge William Gaston, and Judge Joseph Daniel served as members of a Court that the general assembly let sit in relative peace.

### Death of Gaston

The Court’s roots in legislative compromise were exposed again at the death of Judge

Gaston on 23 January 1844. The state mourned the loss of Gaston. A resolution was printed in both the senate and house journals remembering Gaston’s contributions to the betterment of his state:

*Resolved, by the General Assembly of the State of North Carolina, That in the death of William Gaston, one of the Judges of the Supreme Court, the State has experienced a loss of one of its most patriotic citizens, a faithful public servant, and a learned and impartial judge. That in the course of a long and brilliant life, his bright career is left to us an example worthy of all imitation, and his unsullied character one of the brightest jewels of the State....*<sup>33</sup>

Senator Bogle of Iredell County presented a bill to carve out a new western county to be named “Gaston.”<sup>34</sup> This honor was bestowed upon the easterner Gaston not simply because of his work on the bill concerning the Supreme Court in 1818, but also because “he had the pluck to advocate a convention for doing justice to the west.”<sup>35</sup> Another bill from that session—one presented by Senator Nicholas W. Woodfin of the 49th District of Buncombe, Yancey, and Henderson Counties—also links to the mourning of Gaston’s death by the west. That bill provided for an annual summer session of the Supreme Court in the western part of the state.<sup>36</sup> With their friend on the Court now dead, apparently the fear of a too-distant, too-aristocratic Court surged again among the representatives of the western counties.<sup>37</sup> A legislative remedy was fashioned: the Supreme Court would ride a circuit of its own, one running between west and east.

## SUMMER SESSION FOR WESTERN COUNTIES

### Morganton

Under the new law, the Supreme Court would hold a summer session of court in Morganton, Burke County, on the first Monday of each August beginning in 1847 for “all appeals taken, and causes transmitted...from the superior courts of law or the courts of equity of the counties of Stokes, Davidson, Union, Stanly, and of the counties lying west of the same....”<sup>38</sup> The smooth operation of this session of court would depend primarily upon the judges and attorneys in attendance, but also upon

the officials acting as marshal, clerk of court, reporter, and librarian for the summer session.

## Judges

Only six members of the Supreme Court of North Carolina ever rode to summer session at Morganton. At the first summer session, Thomas Ruffin was chief justice and the judges were Frederick Nash (who had been elected upon Judge Gaston's death) and Joseph Daniel. Judge Daniel died before the next summer session. To replace him, the governor appointed William Battle, who served until the general assembly met that fall, when it elected Richmond Pearson to the Court. Four years later, Chief Justice Ruffin resigned. William Battle then became a member of the Court by election of the general assembly and Judge Nash was selected as chief justice. When Chief Justice Nash died six years later, the general assembly re-elected Thomas Ruffin to the Supreme Court and Judge Pearson was selected as chief justice. The next year, Judge Ruffin resigned and the general assembly elected Matthias Manly to the Court.<sup>39</sup>

## Attorneys

The attorneys reported to have argued in Morganton were numerous, and many of them appeared frequently. The Court's official reporters referred to counsel by last name only or by last name and initials. Appearing often were counsel by the names of "Alexander," "W. W. Avery," "Baxter," "Boyden," "Bynum," "Edney," "Francis," "Gaither," "Guion," "H. C. Jones," "Lander," "Osborne," "Shipp," "Thompson," "Wilson," "J. W. Woodfin," and "N. W. Woodfin." At least 70 different attorneys argued in Morganton.

It seems that many accomplished lawyers populate the list of attorneys appearing at sessions of the Supreme Court held at Morganton. For example, "W. W. Avery" may refer to William Waightstill Avery, who served in the state house of commons;<sup>40</sup> "N. W. Woodfin" may refer to Nicholas Washington Woodfin, who served in the state senate;<sup>41</sup> and "H. C. Jones" may refer to Hamilton C. Jones, who served for a decade as the official reporter for the Supreme Court.<sup>42</sup>

## Attorney General or Counsellor

The attorney general, or in his absence an

appointed counsellor, handled the state's business at the summer session of the Supreme Court.<sup>43</sup> Seven men served as attorney general during the years that summer sessions were held at Morganton: Edward Stanley (1846-1848), Bartholomew F. Moore (1848-1851), William Eaton Jr. (1851-1852), Matthew W. Ransom (1853-1855), Joseph B. Batchelor (1855-1856), William H. Bailey (1857), and William A. Jenkins (1857-1862).<sup>44</sup> The reported opinions for the summer session indicate "attorney general" for the state in the vast majority of cases, but on rare occasion an opinion indicates representation by appointed counsellor.<sup>45</sup>

## Marshal

The sheriff of Burke County acted as marshal for the summer session of the Supreme Court.<sup>46</sup> Five men served as sheriff during the years that summer session was held at Morganton: Alexander Duckworth (1846-1848), Milton Wellborn Kincaid (1848-1850), Alexander Duckworth (1850-1854), Joseph Brittain (1854-1860), and Bartlett A. Berry (1860-1865).<sup>47</sup>

## Clerk of Court

Prior to the first summer session, the Court exercised its statutory power to appoint a clerk at Morganton, instead of imposing additional duties on the clerk of the Supreme Court in Raleigh. The Court appointed James Richard Dodge to the position.<sup>48</sup> Mr. Dodge would serve as clerk of court for each of the 15 years in which summer session was held.

## Reporter

The Supreme Court did not exercise its statutory power to appoint a separate reporter for the summer session.<sup>49</sup> Instead, the Court's official reporter handled the headnoting, indexing, and publishing of the opinions at Raleigh and at Morganton. None of the four men who reported cases from summer session distinguished Morganton opinions from Raleigh opinions in tables of cases, tables of cases cited, or subject indexes of reporter volumes, though "August Term" was indicated in the running header of the pages of the reports where appropriate. Besides opinions, two rules were issued from Morganton, one concerning the county court at which execution would be returnable for judgments had at

Morganton,<sup>50</sup> and the other addressing frivolous motions for rehearings.<sup>51</sup> Four men served as reporter during the years the court held summer session: James Iredell Jr. (1840-1852), Perrin Busbee (1852-1853), Quentin Busbee (1853), and Hamilton C. Jones (1853-1863).

## Librarian

The creation of a Supreme Court Library at Morganton dates to 1851.<sup>52</sup> The clerk of court acted as librarian, acquiring what resources could be spared from the collection of law books at Raleigh<sup>53</sup> and using taxes on attorney's licenses to fund the purchase of new law books for Morganton.<sup>54</sup>

## Books, Books, Books

It would be conjectured in an address from 1889 by the Honorable Kemp P. Battle, president of the University of North Carolina, that a weak law library at Morganton resulted in weak opinions at summer session:

In 1846 the lawyers of the western portion of the State induced the General Assembly to order a term of the Court to be held in Morganton....The experiment was not satisfactory to the Court or to the profession. Owing to a want of a law library, 'Morganton decisions,' as they were called, were regarded as less certainly sound than those at Raleigh. The Constitution of 1868 fixed the sessions of the Court 'at the seat of government;' that of 1876 leaves the sessions at 'the city of Raleigh, until otherwise ordered by the General Assembly.'<sup>55</sup>

Since no record exists today of the holdings of the Supreme Court Library at Morganton, one can only speculate about the nature of this reported weakness in the collection. It seems unlikely that the law library lacked the widely-read legal treatises required by the Supreme Court of applicants for law license, such as the classic works of Sir Edward Coke and Sir William Blackstone or the contemporary works of John Adams on equity and James Iredell on executors.<sup>56</sup> And the clerk of court probably had no difficulty acquiring recently compiled digests of North Carolina cases<sup>57</sup> or recently compiled codifications of North Carolina laws<sup>58</sup> for the law library. The most likely gaps in the collection of law books at Morganton were the statutes of Parliament, the reports of judicial opinion in England,<sup>59</sup>



# CHECKERED FLAG MEDIATIONS

**DOUGLAS J. MEIS**  
**Driver/Mediator**

**Helping your clients  
cross the finish line**

**Phone: (336) 725-9090**  
**www.lawyermeis.com**  
**dougmeislaw@gmail.com**



early state session laws, and early state reports.<sup>60</sup>

Not only did the judges suffer a scarcity of resources at Morganton, they may have endured time pressure in the preparation of opinions. Some evidence suggests that the judges filed their Morganton opinions while on circuit.<sup>61</sup> And they filed many Morganton opinions. During the 15 summer sessions, more than 700 opinions were filed, consuming 2,000 pages within 27 volumes of reports.<sup>62</sup>

Still, Morganton decisions contributed to the development of our common law and our equity doctrine in the same manner as Raleigh decisions—by a confluence of practical reasoning by bench and bar in particular cases. The attorneys argued fundamental issues on circuit, sometimes resulting in opinions that display elegant legal reasoning. For instance, in *Love v. Schenck*, concerning the creation of Gaston County, the chief justice described as inherent the power of the general assembly to divide one county into two counties, identified incidental and necessary powers to this inherent power, such as the “power to make also a fair and reasonable division between them of any fund before

raised by levies on the inhabitants of both the counties in common,” and declined to review the exercise of these powers, first explaining that the statute complained of depended-upon “sound discretion by a just lawgiver,” and then noting that “if there be an abuse of power in its exercise, it is like most other cases of such abuse, beyond the judicial perception or redress....”<sup>63</sup>

One ought not gainsay the near contemporaneous opinion that Morganton decisions were “less certainly sound” than Raleigh decisions. Yet, as the quality of *Schenck* indicates, bench and bar at summer session could reach great heights, even when suffering from diminished resources and restrictions on time, and perhaps they often did so.

## Discontinuance of Summer Session

A few months after North Carolina seceded from the union, an act of the general assembly discontinued the summer session at Morganton.<sup>64</sup> Mr. Dodge shipped back to Raleigh the records, books, and papers pertaining to the court in Morganton.<sup>65</sup> He also shipped the library back to Raleigh, first selling off duplicates at public auction.<sup>66</sup>

## SUMMARY CONCLUSION

Tyranny is always despised. At the state constitutional convention of 1835, delegates condemned unequal representation as a back-sliding of the republic into an excess of aristocracy, the established eastern counties of North Carolina in effect having governed the burgeoning population of the western part of the state. Under these circumstances, democracy had emerged as an ideal during the early decades of the 19th century, and it was during this era of democratic reform in North Carolina that the general assembly had established the modern Supreme Court of North Carolina. Unfortunately, legislative compromise at its founding still left the Court’s democratic credentials in question. While the election of William Gaston to the Court in the 1830s helped stabilize its existence, his death in 1844 unsettled the representatives of the state’s western counties once again. They demanded a summer session in the western part of the state for the Supreme Court. That tribute to equality for the west took effect in 1847 and endured for 15 years, but then it, too, died, perhaps of irrelevance. In 1861, delegates met in convention once

more to consider the current of equality, but no longer did the demand for reform run from west to east. ■

*Thomas P. Davis is librarian of the North Carolina Supreme Court Library. The author thanks James Barrett Fish, assistant librarian for public services, North Carolina Supreme Court Library, for his aid in compiling the names of the attorneys who argued at Morganton, and Fred A. Wood, director of information technology, North Carolina Appellate Courts, for his assistance in determining the number of pages of Morganton opinions. The author thanks Ellen Marie Davis, Grant E. Buckner, Jason R. Jones, Joseph L. Hyde, and John V. Orth for having served as readers of this essay.*

## Endnotes

1. *The Address of the Hon. Wm. A. Graham on the Mecklenburg Declaration of Independence of the 20th of May, 1775* (New York, E. J. Hale & Son 1875); *id.* at 8 (quoting from a letter to the organizers of the anniversary celebration of the Mecklenburg Declaration of Independence in 1835 by Judge William Gaston, who had written, "American liberty—here first declared and here most sacredly cherished . . ."). *But see, e.g.,* William Henry Hoyt, *The Mecklenburg Declaration of Independence* (New York, G. P. Putnam's Sons 1907) (expressing skepticism about the existence of the Mecklenburg Declaration of Independence).
2. *North Carolina Manual 2007-2008* at 29 (Elaine F. Marshall, Secretary of State, [Raleigh], [2008]) (noting that since 1861, the year in which North Carolina became the last southern state to secede from the Union, our state flag has displayed the date of the Mecklenburg Declaration of Independence ("May 20, 1775")); *id.* at 24, 27-28 (noting that since 1893, our state seal has displayed the date of the Mecklenburg Declaration of Independence).
3. Henry Groves Connor, *The Convention of 1835* (Raleigh, Edwards & Broughton Printing Company 1908).
4. *Id.* at 15-16 (reporting Judge Gaston as having said that the convention compromise of 50 senators, distributed upon the basis of taxable property, and 120 members in the House of Commons, distributed upon the basis of Federal population, each county having at least one member, bases apportionment upon a correct principle).
5. *N.C. Const. of 1776*, § 13 (referencing "supreme courts of law and equity").
6. Honorable Kemp P. Battle, *An Address on the History of the Supreme Court: Delivered in the Hall of the House of Representatives*, 4 February 1889, 103 N.C. 339, 353 (3rd prtg., 1929).
7. An Act for Establishing Court of Law, and for Regulating Proceedings therein, ch. 2, New Bern, 15 November 1777, 2nd session in 24 *The State Records of North Carolina, Laws 1777-1788*, at 48, 61 (Walter Clark, ed., Wilmington, Broadfoot Pub. Co., 1994) (1905) [hereinafter *1777 Courts Act*].
8. *Potter's Revisal*, ch. 177 (1782).
9. James Iredell resigned in 1778 and was replaced by John Williams of Granville County. In 1790, a statute added a fourth superior court judgeship, to which Spruce Macay of Rowan County was elected by the general assembly. Judge Spencer died in 1794 and was replaced by John Haywood of Halifax County.
10. *1777 Courts Act*, *supra* note 7, sec. 1, at 49.
11. *1777 Courts Act*, *supra* note 7, sec. 1, at 48.
12. An Act to Amend An Act, Entitled, "An Act for Establishing Courts of Law and Regulating the Proceeding Therein," and Another Act, Entitled, "An Act for Giving an Equity Jurisdiction to the Superior Courts," ch. 3, Fayetteville, 01 November 1790, 1st session in 25 *The State Records of North Carolina, Laws 1777-1788*, at 65 (Walter Clark, ed., Wilmington, Broadfoot Pub. Co., 1994) (1906).
13. *See, e.g., State v. Long*, 2 N.C. (1 Hayw.) 154 (1795) (after trial of a felony and special verdict given by the jury, Judges Macay and Haywood were left split on the question on which the jury "pray[ed] the advice of the court": whether felony larceny is committed by one who, with fraudulent intent, obtains the owner's consent to the taking of property; the judges sought the opinions of the other superior court judges of the state, but Judges Ashe and Williams, too, were divided; "and the prisoner was recommended to mercy, and obtained his pardon.").
14. Battle, *supra* note 6, at 357-58 (bemoaning the frequency of "diverse decisions by different supreme tribunals of the same question....").
15. An Act directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of all persons concerned in certain frauds, ch. 4, Raleigh, 18 November 1799, 1st session in 2 *The Public Acts of the General Assembly of North-Carolina* 133 (Francois-Xavier Martin, compiler, New Bern, Martin & Ogden 1804).
16. An Act to continue in force an act passed in the year one thousand eight hundred and one, entitled "An act to continue longer in force and to amend an act passed in the year one thousand seven hundred and ninety-nine, entitled An act directing the judges of the superior courts to meet together to settle questions of law or equity arising on the circuit, and to provide for the trial of persons concerned in certain frauds," ch. 18, Raleigh, 19 November 1804 in *Laws of N.C. [of 1804]*, at 9; An Act relative to the Court of Conference, ch. 1, Raleigh, 18 November 1805 in *Laws of N.C. [of 1805]*, at 1.
17. For a cursory discussion of three subsequent statutes concerning the early Supreme Court, *see* Battle, *supra* note 6, at 358-59.
18. *Potter's Revisal*, chs. 962 & 963 (1818).
19. Guion Griffis Johnson, *Ante-bellum North Carolina* 626 (Chapel Hill, UNC Press 1937); *Gaston's Report Relating to the Judiciary*, Monday, December 6, 1819, *Journal of the Senate in Journals of the Senate and House of Commons of the General Assembly of North-Carolina at its Session in 1819*, at 113, 114 (Raleigh 1820) (musing on the failure of the 1817 bill concerning the supreme court and speculating that perhaps our representatives preferred to endure a current problem than to risk its remedy).
20. Johnson, *supra* note 19, at 626.
21. Chief Justice Walter Clark, *History of the Supreme Court of North Carolina*, 177 N.C. 615, 620 (1919) (noting that the first session of the modern Supreme Court was held on 5 January 1819).
22. Battle, *supra* note 6, at 360.
23. Walter F. Pratt Jr., *The Struggle for Judicial Independence in Antebellum North Carolina: The Story of Two Judges*, 4 *Law & History Review* 129, 130 (1986).
24. Pratt, *supra* note 23, at 135-39.
25. Pratt, *supra* note 23, at 139.
26. Pratt, *supra* note 23, at 129-32, 135.
27. Honorable Robert W. Winston, *A Century of Law in North Carolina* in 176 N.C. 763, 770 (1919) (describing the first members of the modern Supreme Court of North Carolina as "of the Iredell school of thought").
28. *See, e.g., Grantham v. Bizzel*, 10 N.C. (3 Hawks) 196 (1824) (reporting "cause . . . heard on Bill, answer and depositions," the court's opinion by Judge Hall denying relief from obvious errors in a deed where the deed was obtained under oppressive circumstances). Thus, not only do the reports of the state's early Supreme Court include more than decisions on appeals, *see supra* note 13, but also the antebellum reports of the state's modern Supreme Court include more than decisions on appeals, as in *Grantham*.
29. Pratt, *supra* note 23, at 144-47 (describing the fate of a bill to abolish the Supreme Court and to restore the court of conference).
30. Pratt, *supra* note 23, at 129.
31. Pratt, *supra* note 23, at 148 (arguing that the constitutional protection declared in *Hoke v. Henderson*, 15 N.C. 1 (1834), of the property interest of Mr. Lawson Henderson in the statutory office of clerk of superior court for Lincoln County extended by analogy to the statutory office of judge of the supreme court).
32. Pratt, *supra* note 23, at 131 (noting three amendments concerning salary and removal from office).
33. *See, e.g.,* Resolution in relation to the death of the late Wm. Gaston, Tuesday, Dec. 31, 1844, *Senate Journal 1844-'45 in Journals of the Senate and House of Commons of the General Assembly of the State of North Carolina, at its Session in 1844-'45*, at 232 (Raleigh, Weston B. Gales 1845) [hereinafter *Senate Journal 1844-'45*].
34. A Bill to lay off and establish a County by the name of Gaston, Thursday, November 28, 1844, *id.* at 55. This bill was rejected on Wednesday, January 8, 1845, *id.* at 327, but Gaston County was established during the following legislative session. An Act to establish a new county by the name of Gaston, and to annex a part of the county of Catawba to the county of Lincoln, ch. 24, 1846-'47 *Laws of N.C. 73*; An Act supplemental to an act, passed by the present General Assembly, entitled, "an act to lay off and establish a new county by the name of Gaston, and to annex a part of Catawba county to the county of Lincoln," ch. 25, 1846-'47 *Laws of N.C. 73*.
35. Battle, *supra* note 6, at 371.
36. Friday, December 20, 1844, *Senate Journal 1844-'45*, *supra* note 33, at 173. This bill was laid on the table on Tuesday, January 7, 1845, *id.* at 309, but the western riding was established during the following legislative session. An Act to Provide for Holding a Session of the Supreme Court, Once a Year, in the Western Part of the State, ch. 28, 1846-'47 *Laws of NC 86* [hereinafter Act for Summer Session]; An Act Supplemental to an Act, Passed at the Present Session of the General Assembly, Entitled An "An Act to Provide for Holding a Session of the Supreme Court, Once a Year, in the Western Part of the State," ch. 29, 1846-'47 *Laws of N.C. 89* [hereinafter Supplemental Act for Summer Session]. Representative Michael Hoke of Lincoln County had toyed with a similar idea even prior to Judge Gaston's death. Resolution for the Committee on the Judiciary to Inquire into the Expediency of Establishing a Branch of the Supreme Court in the Western part of this State, Tuesday, Nov. 27,



1838, *Journal of the Senate in Journals of the Senate and House of Commons of the General Assembly of the State of North Carolina, at its Session in 1838-39*, at 319 (Raleigh, Thos. J. Lemay 1839).

37. Contrary to the thesis of this essay, the Honorable Kemp P. Battle, president of the University of North Carolina, attributes the legislation requiring a summer session of the Supreme Court to the lawyers of the western part of the state. See *infra* text accompanying note 55.
38. Act for Summer Session, *supra* note 36, sec. 2, at 87 (including also two provisos, one concerning appeals in certain criminal cases, the other concerning the right to return appeals from named counties to Raleigh); see also Supplemental Act for Summer Session, *supra* note 36, sec. 1, at 89 (providing for removal to Morganton of certain appeals undecided at Raleigh).
39. The judges of the supreme court who served in session at Morganton were:

YEAR	CHIEF JUSTICE	JUDGE	JUDGE
1847	Ruffin, Thomas	Daniel, Joseph J.	Nash, Frederick
1848		Battle, William H.	Pearson, Richmond M.
1852	Nash, Frederick		Battle, William H.
1858	Pearson, Richmond M.	Ruffin, Thomas	
1859		Manly, Matthias E.	

Matthias Manly was the last-elected antebellum judge of the Supreme Court of North Carolina and, like Judge Gaston, was a Roman Catholic. See Clark, *supra* note 21, at 624-25; Manly, Matthias in 4 *Dictionary of North Carolina Biography* 211 (William S. Powell, ed., 1991).

40. "W. W. Avery" argued at Morganton in 1853; "Avery" argued both law and equity cases at Morganton from 1847-1860. William Waightstill Avery studied law under William Gaston, practiced law in Morganton, and represented Burke County three times in the state house of commons during the 1840s and 1850s. Avery, William Waightstill in 1 *Dictionary of North Carolina Biography* 71-72 (William S. Powell, ed., 1979).
41. "N. W. Woodfin" argued at every Morganton session, handling both law and equity cases in all years except 1861. Nicholas Washington Woodfin served from 1844-1852 as state senator from the "Buncombe and Henderson District" and introduced the bill which established the summer session of the supreme court. Woodfin, Nicholas Washington in 6 *Dictionary of North Carolina Biography* 263-64 (William S. Powell, ed., 1996).
42. "H. C. Jones" chiefly argued cases at law at Morganton from 1848-1856; "Jones" argued at Morganton from 1857-1859. Hamilton Chamberlain Jones represented Rowan County in the House of Commons in 1827, 1829, 1838, and 1840, as well as finished the term of another in 1849; from 1842-1848 he served as solicitor for the Sixth North Carolina Judicial District; he also served as reporter for the Supreme Court from 1853-1863. Jones, Hamilton Chamberlain in 3 *Dictionary of North Carolina Biography* 318-19 (William S. Powell, ed., 1988).
43. Supplemental Act for Summer Session, *supra* note 36, sec. 4, at 90.
44. *North Carolina Government, 1585-1974: A Narrative and Statistical History* 182 (John L. Cheney Jr., ed., Raleigh, N.C. Sec'y of State 1975).
45. For example, "T. R. Caldwell" appeared in *Attorney-General v. Carver*, 34 N.C. (12 Ired.) 231 (1851); "Baxter" appeared in *State v. Shelton*, 47 N.C. (2 Jones) 360 (1855) and in *State v. Gentry*, 47 N.C. (2 Jones) 406 (1855); and "Avery" appeared in *State v. Tom*, 47 N.C. (2

Jones) 414 (1855).

46. Act for Summer Session, *supra* note 36, sec. 4, at 88.
47. *Burke County Sheriffs-1777 to Present*, Burke County Sheriff's Office, ([burkesheriff.org/pastsheriffs.htm](http://burkesheriff.org/pastsheriffs.htm)) (accessed 12 July 2018).
48. Act for Summer Session, *supra* note 36, sec. 3, at 87-88; Supplemental Act for Summer Session, *supra* note 36, sec. 3, at 90; see also Marshall DeLancey Haywood, *The Officers of the Court, 1819-1919*, 176 N.C. 811-13 (describing James Richard Dodge as a native New Yorker first barred in Virginia before moving to North Carolina to practice law, and as a great friend of a number of notable attorneys who practiced law in Raleigh).
49. Act for Summer Session, *supra* note 36, sec. 5 at 88.
50. 32 N.C. 277 (1849); 41 N.C. 290 (1849).
51. 57 N.C. 154 (1858).
52. An Act to provide Law Books for the Supreme Court at Morganton, ch. 93, sec. 1, 1850-'51 Laws of N.C. 164 (ratified 28 January 1851).
53. Regarding the history of the library at Raleigh, see Raymond M. Taylor, *History of the North Carolina Supreme Court Library*, 275 N.C. 713 (July 1, 1969).
54. *Id.*
55. Battle, *supra* note 6, at 363. President Battle's remarks might suggest that either no law library or no worthwhile law library existed at Morganton. I take him to have meant the latter, since the general assembly funded its mandate to the clerk of court, see *supra* note 52, and since *Hice v. Cox* may evidence an inadequate collection of law books at Morganton, 34 N.C. 315, 321 (1851) (August term) ("For this, is cited *Wright v Beckett*, 1 Moo. and Rob., 414 [174 *English Reports* 143 (1833)], which is not in our library.") (Pearson, J., dissenting).
56. *General Order at December Term 1849*, 32 N.C. (10 Ired.) 607 (setting out the first reading list of the judges of the Supreme Court of North Carolina for applicants for law license); *General Order at December Term 1850*, 33 N.C. (11 Ired.) 658 (requiring the reading of "Adams' Equity"); *Rule by the Court at December Term 1854*, 47 N.C. (2 Jones) 132 (requiring the reading of "Iredell on Executors").
57. Antebellum digests of opinions of the Supreme Court of North Carolina were produced by official reporters Francis Hawks (1826), James Iredell, Jr. (1839), and Hamilton C. Jones (1854) (dedicated by Jones to the memory of "The Honorable William Gaston").
58. Early codifications of North Carolina session laws were *The Revised Statutes of The State of North Carolina* (1837) and the *Revised Code of North Carolina* (1855).
59. *Cf. Hice v. Cox*, 34 N.C. 315, 321 (1851) (August term) (perhaps evidencing a gap in the collection of law books at Morganton when dissenting Judge Pearson notes the absence of a report of *Wright v Beckett*, 1 Moo. and Rob., 414 [174 *English Reports* 143 (1833)] from the court's library).
60. For example, at about the time that Senator Woodfin called for a session of the Supreme Court in the west, William Battle addressed the problem of scarcity of the early state reports for a second time. In 1832 he had reprinted volume 1 of Haywood's Reports from 1799. Now in 1843 to 1844, Battle compressed seven original volumes of North Carolina nominal reports into three reprint volumes: the first of these three reprint volumes contained Martin's Reports (1797) and volume two of Haywood's Reports (1806); the second contained Taylor's Reports (1802) and the Conference Reports (1805); and the third contained the two volumes of the

Carolina Law Repository (1814, 1816) and the North Carolina Term Reports (1818). Later, in 1857 and 1860, Battle would reprint 1st Devereux & Battle (1837) and 2nd Devereux & Battle (1838). 1 William H. Battle, *A Digest of All the Reported Cases Both in Law and Equity, Determined in the Courts of North Carolina* at vi (Raleigh, Nichols, Gorman & Neathery 1866).

61. For instance, a spot-check of entries in the *Supreme Court Equity Docket, August, 1847-August, 1861* (Book No. 158), Volume No. 325, *Records, Dockets, and Miscellaneous Volumes, 1800-1929*, which is available for inspection at the N.C. Office of Archives and History in Raleigh, shows that: (1) case "#53" was an appeal of an order of Spring Term, 1858, from "Gaston County," which was "filed" (docketed?) at Morganton on "27 July 1858" and which was reported among the decisions for August Term 1858 as *High Schools Mining Co. v. Grier*, 57 N.C. (4 Jones Eq.) 132 (1858) (Pearson, J.); and (2) case "#57" was a cause removed to Morganton from the Court of Equity of Lincoln County which was "filed" (docketed?) on "8 August 1858" and which was reported among the decisions for August Term 1858 as *Boyd v. King*, 57 N.C. (4 Jones Eq.) 152 (1858) (Battle, J.).
62. The number of pages of Morganton opinions is here calculated by counting pages in the volumes of the *North Carolina Reports* sold today by the North Carolina Administrative Office of the Courts. Of the reports in which opinions from a summer session at Morganton appear, all 27 volumes sold today are reprints, and only eight of those 27 volumes are facsimile reprints of the originals.

#	TERM	TYPE	ORIGINAL REPORT	N.C. REPORT	# OF PAGES
1	1847	opinions	7 Iredell Law	29	110
	1847	opinions	4 Iredell Equity	39	37
	1848	opinions	8 Iredell Law	30	92
2	1848	opinions	10 Iredell Law	32	20
	1848	opinions	5 Iredell Equity	40	30
	1848	opinions	6 Iredell Equity	41	48
3	1849	opinions	10 Iredell Law	32	175
	1849	opinions	6 Iredell Equity	41	75
4	1850	opinions	11 Iredell Law	33	103
	1850	opinions	7 Iredell Equity	42	38
5	1851	opinions	12 Iredell Law	34	108
	1851	opinions	7 Iredell Equity	42	58
6	1852	opinions	13 Iredell Law	35	56
	1852	opinions	8 Iredell Equity	43	14
7	1853	opinions	Busbee Law	44	92
	1853	opinions	Busbee Equity	45	57
8	1854	opinions	1 Jones Law	46*	111
	1854	opinions	1 Jones Equity	54	58
9	1855	opinions	2 Jones Law	47*	138
	1855	opinions	2 Jones Equity	55	34
	1856	opinions	3 Jones Law	48*	75
10	1856	opinions	2 Jones Equity	55	49
11	1857	opinions	4 Jones Law	49*	89
	1857	opinions	3 Jones Equity	56*	32
	1858	opinions	5 Jones Law	50*	35
12	1858	opinions	4 Jones Equity	57*	34
	1859	opinions	6 Jones Law	51*	80
13	1859	opinions	4 Jones Equity	57*	47
	1860	opinions	7 Jones Law	52	58
14	1860	opinions	5 Jones Equity	58	23
	1861	opinions	8 Jones Law	53	15
15	1861	opinions	6 Jones Equity	59	3
	1849	rule	10 Iredell Law	32	2
	1849	rule	6 Iredell Equity	41	2
	1858	rule	4 Jones Equity	57	2
TOTAL NUMBER OF PAGES = 2,000					

\* facsimile reprint

63. 34 N.C. (12 Ired.) 304, 307-09 (1851) (Ruffin, C.J.).
64. An Act to Change the Jurisdiction of the Courts and the Rules of Pleading Therein, ch. 4, sec. 14, 1861-'62-'63-'64 & 1859 Public Laws of the State of North Carolina 5, 8-9 (Raleigh 1866) (ratified September 11, 1861).
65. *Id.*
66. *Id.*



# Counselor

BY RYAN STOWE

In the center of every North Carolina law license, printed in bold type, are the words “ATTORNEY AND COUNSELOR AT LAW.” That language is not archaic. In fact, I think it’s particularly relevant to the practice of law today. I don’t make the argument that the latter part of our title is more important to our practice than the former;

however, I do believe that it is more critical to our clients than many lawyers acknowledge. It seems that all too often attorneys overlook their duties as counselors. Despite the historic charge our licenses bear, in prac-



©iStockphoto.com/PeopleImages

tice and in theory the profession seems to have forgotten the fullness of its original intentions.

I realized early in my career that obligations to my clients far exceed the representation provided in the courtroom. This is doubly true anytime one represents indigent clients, especially in the arena of criminal defense. Most indigent clients face severe underrepresentation for their legal matters, except where an attorney is a constitutional right, such as court-appointed representation for a criminal charge. Under these circumstances, it is likely that their court-appointed attorney is the first lawyer with whom they

have ever had a close interpersonal relationship. As such, said attorney will probably be asked questions that surpass the scope of the court-appointed representation. It’s not uncommon, for example, for a client to show up to court and present their attorney with any number of legal notices they have received, including collections, evictions, DMV suspension notices, even announcements for public rezoning hearings. The reality is that this attorney may be the only counsel to which they have or have had

access. Most of our clients’ salient issues will fall outside of our practice areas. I think this is when being a counselor at law matters. It doesn’t hurt to at least read the letter, provide a referral to a colleague or Legal Aid, or even offer limited legal advice with regards to the situation when possible.

Often our clients are in jail not because they have been convicted of a crime, but because they are accused of a crime and cannot afford bail. When representing clients in jail, I find our duties as a counselor some-

times outweigh our responsibilities as an attorney. Frequently, when visiting clients who are in jail I am asked to send messages to family members and other loved ones to update them on their cases. Sometimes those messages have involved me calling a client's mom to say, "John Doe asked me to tell you that he loves you." In that situation, limiting my role to that of an attorney would probably have involved me making motions for bond reductions or eschewing such sentimental pursuits in favor of working on the case at hand. Accepting the full charge of "attorney and counselor," however, means making concessions for interpersonal considerations, which can be just as impactful as the legal proceedings themselves.

Empathy is a vital attribute, even in fulfilling the basic tenets of an attorney's legal obligations to their clients. Understanding how other people feel—and doing more active listening than talking—is the basis of showing empathy, which is a critical factor in the leading models of displaying emotional intelligence. Most clients are not oblivious to the fact that some attorneys care more about their cases than the clients do themselves, and some criticize the one-dimensional approach of their attorney towards their legal cases. To dispel these perceptions and advance the profession, attorneys must concern themselves with the welfare of the client, not just their legal matter. This rededication to the individuals and communities we serve will foster professional growth, and attorney-client relationships will take firmer root. Seemingly innocuous details such as showing empathy to clients are often invaluable to winning cases. In the event of a loss, compassion can be a potent salve to the client's immediate reaction to the outcome.

There are times when one's duties to their client seem skewed to counseling rather than practical representation. While it is important to maintain professional boundaries and decorum, we must understand the necessity of providing earnest counsel tailored to specific client needs. An attorney can contribute immensely to the growth of their client by empowering them to prevent the reoccurrence of problems. Addressing singular cases without taking the time to appreciate a client's root issue is shortsighted and may inadvertently contribute to future conundrums. For example, when assisting clients in filing copyright applications, I make it a point to clarify every stage in order to help them

actualize the process. When clients understand the finer points of documentation and motions as well as the big picture, it helps them make better-informed decisions in their general business operations. This is a very simple consideration that can have a major impact on a client's endeavors. Things like this aren't always stressed in law school, but are essential to the practice.

As counselors, by actively listening we get to know our clients, leading to clearer insight into their needs and goals. The first opportunity to build this rapport arises during our initial client interview. This rapport is imperative, especially to any situation in which an attorney must negotiate with another party on behalf of their client. The more effectively we listen, the higher the chances are that we can meet our clients' needs during negotiations, and perhaps even broker a win-win scenario for the other party as well. As intuitive as it seems, simply listening to clients and paying attention to what they express is a fundamental technique many attorneys fail to employ, especially when working within disadvantaged communities.

On a surface level, prioritizing counsel over simplifying practical action may seem averse to a client's best interest. A closer look, however, may show that carefully considered interpersonal action is indeed beneficial. I recently represented a 16-year-old male, a ward of the state living in a Department of Social Services group home. I represented him on two simple assault charges. My client had severe issues managing his anger. The judge sentenced the young man to supervised probation. During sentencing I asked the judge if he would consider requiring the completion of an anger management course as a part of his probation requirements. Generally, tacking on extra requirements for a client is counterintuitive, but I knew my client would benefit as a person as a result. I didn't want to see him in the court system again. I thought—or at least I hoped—that maybe this anger management course would be the intervention he needed in order to not become a person involved with the criminal justice system for the remainder of his life. While there is no guarantee this will be the case, I am confident in my judgment of the situation based on the earnest conversations I had with my client. Judgment calls can and will be wrong; practicing empathy successfully mitigates these risks.

There are times when our clients just want



## THE MEREDITH PARALEGAL PROGRAM

**Choose the only American Bar Association approved program in the Triangle.**

At Meredith, we've been preparing women and men to excel in the legal profession for more than 30 years. You'll conduct research and analyze cases. Gain experience through a pro bono clinic. Build a network in the legal community. And receive personalized job placement assistance to help you find just the right position.

**Get started today.**  
[meredith.edu/legal](http://meredith.edu/legal)

18-206

**MEREDITH**  
COLLEGE

to be heard. For some, just "getting their day in court" is more important than the outcome. In those moments, client consultations can easily feel like therapy sessions, especially in the context of family law. When our clients want to know if they are validated in their feelings, an impersonal, strictly legal perspective may be inconducive to positive development. This is when embracing the counselor role flourishes the most.

Sometimes being a counselor feels more like being a social worker than an attorney, but I think those moments are when we do our best work. There have been times when I've had to drive clients to court or even call

CONTINUED ON PAGE 21

# Recovering from Disaster: “Helpers” in the Legal Community Respond

BY MARY IRVINE

**O**n September 14, 2018, Hurricane Florence hit the coast of North Carolina near Wrightsville Beach. When it reached the shore, the Category 1 storm brought winds of 90 miles per hour. Record-breaking storm surge levels were recorded in several coastal communities. Over the next four days, the

hurricane lingered and some areas across the state experienced three feet of rain, the wettest tropical cyclone recorded in North Carolina. Catastrophic flooding across North Carolina lasted for several weeks closing major roads and damaging infrastructure, homes, and businesses. A disaster was declared in 31 out of 100 North Carolina counties. Just a few weeks later, a new round of wind, rain, and flooding hit as Tropical Storm Michael passed through North Carolina, impacting western and central North Carolina counties.

## Impact of the Hurricane

As the legal community responds, initial assessments about the impact of Hurricane Florence suggest we will be in this recovery for years to come. The social and economic costs of Hurricane Florence are still being assessed. At least 48 deaths were attributed to the storm, including the loss of 37 North Carolinians. According to Moody's Analytics, the estimated economic cost of the event ranges from \$38 to \$50 billion as of September 21, including property damage, vehicle loss, and lost output. By these estimates, Hurricane Florence is among the ten most costly hurricanes in United States



*Hurricane Florence is pictured from the International Space Station as a Category 1 storm as it was making landfall near Wrightsville Beach, North Carolina. Photo from NASA.*

## Disaster Legal Services Volunteer Opportunities

The North Carolina Bar Association, FEMA, the American Bar Association, and Legal Aid of North Carolina are collaborating to provide immediate *pro bono* assistance to Hurricane Florence victims through the Disaster Legal Services Hotline. Volunteers are needed to provide brief advice and services and assist with phone intake.

Legal Aid of North Carolina, the North Carolina Bar Foundation, and the North Carolina *Pro Bono* Resource Center are also working to staff information and resource tables at disaster recovery centers and host other clinics on the ground with community organizations to answer legal questions.

Visit [ncbar.org/florence](http://ncbar.org/florence) for more information about volunteer opportunities.

Additional information and resources for volunteers are available at [ncprobono.org](http://ncprobono.org).

history.

Arriving at the peak of fall harvest season in North Carolina, the storm brought an estimated \$1 billion in crop damages and livestock losses. State and federal officials are still working to determine the extent of the storm's impact on water quality and to address concerns about other environmental contaminations. Another less quantifiable significant cost is the lost educational time for school children in impacted areas where some schools were closed for several weeks.

Even though the daily updates on the local news have subsided, real problems persist in eastern North Carolina following Hurricane Florence. Common sense tells us that the individuals in need before disaster strikes will continue to be among the most



vulnerable during and after the event. Using Census data, the Social Vulnerability Index created by the Centers for Disease Control and Prevention seeks to pinpoint the most vulnerable communities expected to need support, a need only exacerbated by disaster. Variables like socioeconomic status, household composition, disability, minority status, language, housing, and transportation are considered. Twenty-one of the 31 counties where disaster has been declared are identified by the index as the most vulnerable.

With support from NC IOLTA, the NC Equal Access to Justice Commission, in partnership with various legal groups in South Carolina, created a website with story maps to help demonstrate the impact and legal needs following Hurricane Florence. For more information, visit [bitly.com/NClegalaid](http://bitly.com/NClegalaid).

### How Legal Aid Helps

Civil legal aid has a critical role in helping communities recover from disasters. In the immediate aftermath of a disaster, attorneys and legal advocates guide victims through administrative processes and identify legal issues. Landlord-tenant questions, issues with applying for FEMA assistance and other benefits, referrals to community services, and replacement of lost documents are among the most pressing concerns. Later, as victims rebuild, other civil legal issues arise: appeals of benefit denials, consumer scams, foreclosure prevention, and insurance claims.

To help respond to these issues, NC IOLTA recently approved grants to two collaborative projects that will provide legal services to Hurricane Florence victims:

- Legal Aid of North Carolina, the North Carolina Bar Foundation, and the North Carolina Pro Bono Resource Center were awarded \$161,100 to engage *pro bono* volunteers to help individuals impacted by Hurricane Florence including advice offered through the Disaster Legal Services Hotline and in-person “know your rights” presentations and brief advice clinics.

- The North Carolina Justice Center and the Financial Protection Law Center received \$65,500 to support placement of a bilingual legal services advocate in Wilmington to assist hurricane victims in eastern North Carolina who are immigrants and may not be able to be served by

other efforts.

In this moment of crisis in North Carolina, it is heartening to see concern pouring in from outside our state. In the early days after Florence hit, lawyers, law firms, and bar groups across the country began reaching out to offer their support. In response to the need, on October 2, 2018, the North Carolina Supreme Court approved the North Carolina State Bar’s temporary rule amendment allowing lawyers licensed outside of North Carolina to immediately begin providing *pro bono* legal services to indigent victims of Hurricane Florence. This emergency rule streamlines the process by which out of state lawyers can provide *pro bono* services through a nonprofit legal services organization. For more information about the rule and a copy of the form to register with the State Bar, visit the State Bar’s website at [ncbar.gov](http://ncbar.gov).

### Look for the Helpers

Fred Rogers, the longtime PBS host who spent more than 30 years teaching young children through his show *Mister Rogers’ Neighborhood*, relayed a story from his childhood to ease the minds of his watchers in times of tragedy and disaster. Mr. Rogers said his mother always told him that, despite the hardship that accompanies disaster, we should “look for the helpers” because there are always people helping, people who care and want to give of themselves to lift others and ease their suffering.

In the early days following the hurricane, many “helpers” were on the ground to respond to the disaster: rescue teams, firefighters, first responders, police officers, Red Cross workers, neighbors, line crews working to restore power, volunteers serving hot meals in shelters, collecting and transporting supplies to communities in need, and removing debris from yards. The second wave of support encompasses a broader group, including staff of NC’s legal aid providers and private attorney volunteers who are working to help the most vulnerable individuals and communities recover from Hurricane Florence.

If you have not already, considering joining the legal community’s team of “helpers” today. ■

*Mary Irvine is the executive director of the North Carolina State Bar Plan for Interest on Lawyers’ Trust Accounts (NC IOLTA).*

---

## Counselor (cont.)

them a taxi, especially clients with revoked licenses. Of course, forcing clients to court isn’t in our job description, but acting in the best interests of our clients is supremely rooted in our duties. When it’s 8:30 AM and a client realizes that they no longer have a ride to court at 9:00 AM, they are faced with either breaking the law and driving themselves or missing court in its entirety. Their instinct is to call their lawyer, and that instinct should be a reliable one.

We should not only be proud to be attorneys, but to also be counselors at law. While the strategy and satisfaction of courtroom proceedings are often more appealing, there is a certain level of gratification that comes when serving the interpersonal needs of a client. It is my belief that if attorneys serve in their capacity as counselors more passionately, they’ll see an increase in their effectiveness as well as career satisfaction, the legal industry will become more robust and expansive, and the perception of the profession by the public will become more amiable. As you go about practicing your craft, I invite you to ask yourself, “How completely am I responding to the full call of the attorney and counselor at law?” ■

*Ryan Stowe is the principal attorney at The Polaris Law Firm. Stowe is a first generation Rowan County attorney, who is proud to be practicing in his hometown of Salisbury, NC. He focuses his practice on traffic violations, criminal law, and intellectual property.*

Interested in acquiring/merging with estate planning law firms or take over from retiring/deceased attorneys especially in western North Carolina. We have 7 lawyers and a full support team including probate. Very client-centric. Contact: Andrew A. Strauss at [andy@strausslaw.com](mailto:andy@strausslaw.com) or 828.210.0506.

# Running Man

BY G. GRAY WILSON

Pheidippides never met George Cleland IV. The former ran from the Battle of Marathon in 490 BC to Athens to tell the Greek citizens that the Persians had been defeated, then collapsed and died. George Cleland is also a man on the run. He has been running for years now from his home base in Winston-Salem, after raising a family of three with his wife Melissa (a charming redhead, but not a runner) while engaged in a full-time general civil and criminal law practice with his father (you guessed it, George Cleland III) and sister. He has been running literally all over the world during the past eight years.

You see, George (his enemies and only a few friends call him Georgie, which makes sense when you consider that there are a sheaf of Georges walking around in the family) likes to run one, and only one, kind of foot race: marathons. Across town, another lawyer, “Iron Man” David Daggett, has participated in over 100 triathlons, a unique achievement in the bar of this and many other states. But George prefers marathons, all 26 miles, 385 yards, although he logs a lot of half-marathons for training purposes only (around 60 to date), and before he reaches that fast-approaching age where he can no longer go the distance, he plans to blanket the globe. With 800 marathons to choose from world-wide each year, he can take his pick.

But this was not always the case. In 2009 George was just another lawyer in private practice, and a major couch potato. At five feet, ten inches, he weighed in at 240 pounds, with a body mass index approaching morbid obesity and an ominous upward trend in his blood pressure. He knew he needed to trim some serious pounds off his beltline, but he had the body of a boxer, not a runner. Yet boxing was not an option for a man in his late 40s, so he dressed out in running togs and a pair of Nikes and starting jogging. And badly. It was a struggle at first; Cleland was happy to make it around the block a couple of times. But every single day, hot or cold, rain or shine, he faithfully trotted out his laps.

After a while he got up to a mile or more,



and a beautiful new addiction started to kick in. He found he liked moving forward in a straight line, watching his waistline shrink, not unlike Jim Fixx (*The Complete Book of Running*, 1977), who was an overweight, chain-smoking weakling at the age of 35 when he hit the pavement and jump-started the American fitness revolution in the 70s before dying of a massive coronary at the age of 52. In the heat of July 2009, George drove out to Salem Lake after work and knocked out his first seven-mile run. By then, he was totally hooked.

George was ready for his first race that September—not a big one, 5K (3.1 miles). He finished that challenge, but that was about all, for despite an amazing weight loss,

he was still hauling a 200-pound frame around the track. So he kept on running, and as he progressed he was able to pick up the pace and the mileage, while dropping down to a trim 175 pounds. A year later he was ready. On December 5, 2010, at the age of 47, Cleland flew to Dallas, Texas, and logged the White Rock Marathon in three hours and 48 minutes, not too shabby for a running debut. Maybe not Abebe Bikila, the Ethiopian marathon god who won the 1960 Olympics in Rome—barefooted—only to repeat the feat in Tokyo four years later, but still a respectable showing, especially considering that while they were the same height, Bikila only weighed 126 pounds. (Note that Bikila died at the age of 41 from a stroke, five years younger than Cleland was when he hit the trail for the first time.)

The training for this race had been grueling, up to 50 miles per week with a couple of jaunts over 20 miles. While that alone might be enough to check off the bucket list for most men (and women) his age, Cleland launched into an odyssey of marathoning around the United States and elsewhere. It takes a lot of maintenance: 35-40 miles per week, about 1,800 miles per year. The following is a list of belt notches he has added since Dallas:

- 2011 UHC Marathon, High Point
- 2012 Rock & Roll Marathon, Phoenix
- Edinburgh Marathon, Scotland
- Richmond Marathon, VA
- 2013 Boston Marathon
- Budapest Marathon, Hungary
- 2014 Boston Marathon
- New York City Marathon
- 2015 Boston Marathon
- Auckland Marathon, New Zealand
- 2016 Boston Marathon
- Grandfather Mountain Marathon
- Erie Marathon, PA
- Dublin Marathon, Ireland
- 2017 Charleston Marathon, SC
- Boston Marathon
- Hatfield & McCoy Marathon, KY/WV
- Hamilton Marathon, OH
- Chicago Marathon
- RDC Marathon, Durham
- 2018 Charleston Marathon, SC
- Boston Marathon
- Amsterdam Marathon

George is not planning to slack off any time soon. On October 8, 2017, he ran the Chicago Marathon in three hours, 30 min-

utes, climbing a horrific hill at the finish line. Then he logged the RDC Marathon in Durham in December 2017, followed by the Charleston Marathon in January 2018. And in October 2018 he ran the Amsterdam Marathon.

George was in Boston on April 15, 2013, when he ran a personal best of three hours and 21 minutes, which may be why he is alive today. He was already back in his hotel near the finish line when two pressure-cooker bombs detonated, killing three, maiming 16, and injuring hundreds. He first learned about the explosion that rocked the country while standing in front of the television in the hotel bar. Outside it was pure chaos, with law enforcement trying to lock down the city while everyone rushed to the airport to leave. Every year since, he has qualified and returned to Boston for this legendary race. Despite temperatures in the 80s in 2017, George still posted a time of three hours, 40 minutes, an excellent performance from a guy in his mid-50s. Then on April 16, 2018, in 40 degree rain and a fierce headwind, he still managed to eke out a time of four hours, ten minutes. This was his sixth trip to Boston for the race. With him was his son, George V, running his fourth Boston Marathon in two hours, 50 minutes. Georges IV and V have already qualified and registered to run the Boston Marathon again in April 2019.

So why does a mere lawyer engage in such herculean pursuits? He has nothing to prove—certainly not now—to himself, to his family, or to anyone else. Cleland has a strong heart, unlike Mr. Fixx, but he is never going to work off another 50 pounds to get down to Bikila's running heft. After Boston this year, George was having trouble going down stairs for over a week. However, as long as his legs hold out, he plans to keep on trucking.

Maybe George has another reason for running. Forty-five years ago a company now known as Nike was a struggling mom 'n' pop shoe store based in Oregon. Sales were steady but limited despite its new waffle sole innovation, which should have been a marketing smash hit. The founder, Phil Knight (now in his 80s), was forced to the brink of bankruptcy on multiple occasions for lack of that liquid gold known as cash flow, because the American banking industry frankly had no use for a start-up sports shoe manufacturer in need of capital. Then a kid at the University of Oregon named Steve Prefontaine strapped on a pair of Nikes and

NORTH CAROLINA  
COMMUNITY FOUNDATION




We add value to your  
practice by extending your  
expertise and helping your  
clients reach their  
philanthropic goals.

CALL 800.532.1349  
NCCOMMUNITYFOUNDATION.ORG

decided he like them. That was all it took. This endorsement launched a billion-dollar enterprise as "Pre," as he was known, promptly headed out to the track and broke every distance record in the country from 2,000 to 10,000 meters. Today, running is an even bigger business than the craze that seized a nation several decades ago. It is the quintessential fitness regimen that without a doubt has extended countless life spans, not to mention the reduction in stress and improved quality of life for millions.

George could just be riding the wave. ■

*G. Gray Wilson, president of the State Bar, is a partner with the Winston-Salem firm of Nelson Mullins Riley & Scarborough LLP.*



# Grievance Committee and DHC Actions

## Disbarments

**Paige C. Cabe** of Sanford embezzled entrusted funds and committed other trust account violations, did not respond to the State Bar, neglected and did not communicate with clients, did not refund unearned fees, and engaged in dishonest conduct and in conduct prejudicial to the administration of justice. She was disbarred by the Disciplinary Hearing Commission.

**Alvaro De La Calle** of Greensboro abandoned clients, collected fees without providing the legal services for which he was paid, misrepresented the services he would provide to clients, engaged in conduct involving dishonesty, revealed confidential information about his clients to others, split fees without his clients' knowledge or permission, and engaged in conduct prejudicial to the administration of justice. At the time of his surrender, De La Calle was serving a five-year suspension imposed in 16 DHC 19. He surrendered his license and was disbarred by the DHC.

The DHC disbarred **Carson Freeman** of Charlotte. Freeman misappropriated entrusted funds and committed other trust account violations.

**A. Scott Hamilton** of Henderson surrendered his law license and was disbarred by the Wake County Superior Court. Hamilton acknowledged that he misappropriated entrusted funds totaling at least \$3122.50.

**Fletcher R. Hartsell Jr.** of Concord submitted his affidavit of surrender of law license and was disbarred by the council on October 26. Hartsell pled guilty and was convicted of (1) mail fraud in violation of 18 U.S.C. §§1341 and 1342; (2) filing false tax returns for the year 2010 in violation of 26 U.S.C. §7206(1); and (3) certifying and filing false campaign reports with the North Carolina State Board of Elections in violation of N.C. Gen. Stat. §163-278.32.

**Trevor Huck** of Albemarle submitted his affidavit of surrender of law license and was disbarred by the council on October 26.

Huck pled guilty and was convicted of the felony offense of receipt of child pornography in violation of 18 U.S.C. §2252A(a)(2)(A) and (b)(2).

**Matthew A. Smith** of Raleigh was convicted of taking indecent liberties with a child, a felony, in violation of N.C. Gen. Stat. § 14-202.1. He was disbarred by the DHC.

**Lawrence Wittenburg** of Cary surrendered his law license and was disbarred by the Wake County Superior Court. Wittenburg acknowledged that he misappropriated at least \$170,000 to which his law firm was entitled by cashing checks tendered in payment of legal fees while he was a salaried employee of the firm.

## Suspensions & Stayed Suspensions

The DHC found that **Joseph Eric Altman** of Rockingham violated multiple trust account rules. Altman also disclosed confidential client information to a jury without his client's permission, resulting in a mistrial. He was suspended for two years. The suspension is stayed for three years upon Altman's compliance with enumerated conditions.

**Joseph Forbes** of Elizabeth City violated multiple trust account rules. The rule violations were established by default. The DHC suspended Forbes for three years. After serving six months active suspension, Forbes will be eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions.

The Martin County Superior Court suspended the law license of **David E. Gurganus** of Williamston. Gurganus is disabled by a condition that renders him unavailable to perform legal services for his clients.

The DHC found that **Thomas S. Hicks** of Wilmington abandoned several clients, did not refund unearned fees when he was suspended by the DHC in 15 DHC 16, and did not respond to the Grievance Committee. It suspended him for three years effective immediately upon the expiration

of the five-year suspension imposed in 15 DHC 16.

**Jonathan Hunt** of Durham falsified dates on certificates of service. The DHC suspended him for one year. The suspension is stayed for three years upon Hunt's compliance with enumerated conditions.

**James N. Jorgensen** of Raleigh neglected clients, did not promptly disburse entrusted funds, made a false statement to clients, did not reconcile his trust accounts, and did not timely respond to the Grievance Committee. The DHC suspended him for three years. The suspension is stayed for three years upon Jorgensen's compliance with enumerated conditions.

**Brent King** of Huntersville violated multiple trust account rules. The DHC suspended him for two years. The suspension is stayed for two years upon King's compliance with enumerated conditions.

## Stayed Suspensions Activated

In August 2017 the DHC suspended Charlotte lawyer **Robert M. Donlon's** license for one year and stayed the suspension for two years. Donlon threatened to expose embarrassing or incriminating information about attorneys in a firm that had brought a lawsuit against him in order to intimidate them into paying legal fees he incurred defending the lawsuit. The DHC concluded that Donlon did not comply with the conditions of the stay. On October 18, 2018, it lifted the stay and activated the suspension. After serving six months active suspension, Donlon will be eligible to apply for a stay of the balance.

## Censures

**Kenneth Davies** of Charlotte was censured by the Grievance Committee. Davies allowed his paralegal, a former lawyer who was disbarred because he misappropriated entrusted funds, to provide legal services and advice directly to a North Carolina resident and failed to take reasonable measures to ensure that his nonlawyer assistant's conduct was compatible with Davies' professional

obligations.

The Grievance Committee censured attorney **David Michael O'Bryan**, formerly of Kannapolis. O'Bryan was convicted of contempt of court. The court found that, while representing a criminal defendant, O'Bryan made misrepresentations to the court, knowingly disobeyed an obligation under the rules of the tribunal, did not act with diligence, and did not adequately communicate with his client.

The Grievance Committee censured **Shannon Reid** of Gastonia. Reid neglected and did not keep his client informed. He also did not respond to the local Grievance Committee. The committee found as aggravating circumstances that Reid had prior discipline for failing to respond to the State Bar and for neglecting a client's case.

**Robin Verhoeven** of Carrboro was censured by the Grievance Committee. Verhoeven neglected and did not communicate with her clients in three domestic cases, made material misrepresentations to one client and to the Grievance Committee, and did not respond to the Grievance Committee.

---

### Reprimands

The Grievance Committee reprimanded **Joseph Altman** of Rockingham for neglecting and failing to communicate with a client. The committee found as an aggravating circumstance that Altman had a prior reprimand for neglecting a client and failing to appear in court.

**Sean T. Dillenbeck** of Paw Creek was reprimanded by the Grievance Committee. He did not notify his client that arbitration was scheduled in its case and did not attend the arbitration. When his law partners called to find out where he was, Dillenbeck told them that he was working from home when he was actually in New York City. A significant judgment was entered at arbitration against his client. Later, Dillenbeck did not assist his then former law partners in their efforts to obtain relief from the judgment, effectively abandoning his client. He also made a misrepresentation to the Grievance Committee.

**Joseph H. Forbes Jr.** of Elizabeth City was reprimanded by the Grievance Committee. He did not communicate with his client and did not settle his client's personal injury claim or file a civil action before the statute of limitations expired. Forbes had previously failed to file a personal injury

action before it was time barred.

The Grievance Committee reprimanded **Douglas K. Simmons** of Charlotte. Simmons aided the unauthorized practice of law by Lexington Law. Before Lexington Law registered as an interstate law firm, Simmons provided legal services to North Carolina residents on behalf of and at the direction of Lexington Law, allowed Lexington Law to direct and control the legal services he provided, shared a fee with a nonlawyer, and collected an illegal fee by accepting a portion of the fees collected by Lexington Law from North Carolina consumers. Simmons did not supervise his nonlawyer assistants of Lexington Law and allowed his nonlawyer assistants to solicit clients.

---

### Transfers to Disability Inactive Status

**Wendelyn R. Harris** of Virginia, formerly of Raleigh, was transferred to disability inactive status by the DHC.

---

### Reinstatements from Disability Inactive Status

The DHC reinstated **Heather Anne Shade** of Fairview to active status from disability inactive status.

---

### Stays of Existing Suspensions

**Tracey 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 for making false representations in court filings in an attempt to obtain confidential prison visitation records. The order provided that Cline would receive credit toward the five years for any time she did not practice law since she was removed from office, and provided that after serving two years of the suspension, Cline would be eligible to petition for a stay of the balance. Cline filed two petitions to reinstate her law license which were denied because Cline was not eligible at those times to seek reinstatement. Cline's third petition for reinstatement was granted.

In October 2016, **R. Kelly Calloway Jr.** of Hendersonville was suspended for four years for failing to file and pay state taxes in 2009 and failing to file or pay withholding and unemployment taxes for six years. The order provided that Calloway would be eligible to petition for a stay after serving a year

of active suspension. In March 2018 the DHC denied Calloway's first petition for a stay, but allowed Calloway to petition again after six months. The DHC granted Calloway's second petition effective September 13, 2018.

---

### Orders of Reciprocal Discipline

The chair of the Grievance Committee issued an order of reciprocal discipline reprimanding **George Robert Blakey** of Paradise Valley, Arizona. In 2015 the District of Columbia Office of Bar Counsel issued a public informal admonition to Blakey for knowingly assisting his client in revealing confidences and secrets or using a confidence or secret to the disadvantage of a former client/employer.

---

### Notices of Intent to Seek Reinstatement

---

#### In the Matter of Alexander Lapinski

Notice is hereby given that Alexander Lapinski of Durham intends to file a petition for reinstatement before the Disciplinary Hearing Commission of the North Carolina State Bar. Lapinski surrendered his license and was disbarred by the Wake County Superior Court effective June 20, 2012. Lapinski's disbarment was the result of his guilty plea in federal court to one felony count of unlawful procurement of citizenship or naturalization under 18 U.S.C. Sec. 1425 by aiding and abetting his client in seeking US citizenship under a false name.

---

#### In the Matter of Creighton W. Sossomon

Notice is hereby given that Creighton W. Sossomon of Highlands intends to file a petition for reinstatement before the Disciplinary Hearing Commission of the North Carolina State Bar. Sossomon was disbarred by Order dated October 16, 2012, pursuant to voluntary surrender of his license on October 2, 2012, in which he admitted the unauthorized use of entrusted funds for the benefit of someone other than the beneficial owner.

Individuals who wish to note their concurrence with or opposition to these petitions should file written notice with the secretary of the North Carolina State Bar, PO Box 25908, Raleigh, NC, 27611, before February 1, 2019 (60 days after publication). ■

# Is It Time for Your Firm to Take Up the Mindfulness Mantle?

BY LAURA MAHR

**T**his summer, the ABA's Law Practice Division's monthly publication, Law Practice Today (LPT), focused entirely on the issue of lawyer well-being. The "Attorney Wellbeing Issue" ([lawpracticetoday.org/?issue=attorney-well-being-issue-august-2018](http://lawpracticetoday.org/?issue=attorney-well-being-issue-august-2018)) highlighted a myriad of wellness-related topics, from how law practice impacts our intimate relationships, to how to think like a leader. I was invited to submit an article on mindfulness for the publication. Based on the positive feedback I've received from LPT readers, I share my article, "Is It Time for Your Firm to Take Up the Mindfulness Mantle?" here. In doing so, I would like to recognize and commend the numerous forward-thinking North Carolina law firms, judicial districts, nonprofits, and organizations that, in addition to the North Carolina Bar Association and the North Carolina State Bar's Lawyer Assistance Program, have sponsored me to conduct mindfulness CLEs. The pioneering leadership around our state in understanding the value of mindfulness training for attorneys and judges is putting North Carolina on the national lawyer wellbeing map.



©iStockphoto.com/Juergen Sack

By now, you've probably heard about the benefits of mindfulness for lawyers. From reducing stress and strengthening the immune system, to improving sleep, lowering blood pressure, and reducing anxiety, mindfulness (the practice of being present in the moment without judgment)—and mindfulness meditation in particular—has been shown to improve mental and physical health in innumerable ways. Research also shows that mindfulness meditation has positive benefits on cognitive functioning, including improved memory, attention span, focus, and creative thinking—the exact competencies lawyers are paid to affect daily.

## Whose Job Is It?

By and large, the legal field perceives mindfulness as something to be undertaken for personal reasons after hours. Despite the benefits of practicing mindfulness, most firms do not regard mindfulness education as a business necessity, nor do they invest in in-house mindfulness training for lawyers, let alone for the entire staff. It may be time to shift perspectives. Employing a workforce that practices mindfulness has tangible benefits, including less absenteeism due to illness, fewer mistakes due to absent-mindedness, and lower turnover due to burnout.

## Think of it This Way

Your firm is a fish tank—your workforce are the fish, the water is the office culture. Which is more efficient: hoping one fish at a time will take up the mantle for its own well-being, or providing the water, food, and aeration that creates an environment that bolsters the wellbeing of the entire school? Simply put, why hope individual lawyers will eventually find tools to decrease stress in their "free time" when you can operationalize mindfulness practices, cultivating an office culture that supports the wellbeing and efficacy of the entire legal team... starting now?



## ABA Call to Action

The recommendations published by the ABA's National Task Force on Lawyer Well-Being follow this logic. In 2016, after the *Journal of Addiction Medicine* published a landmark study conducted by the ABA Commission on Lawyer Assistance Programs and the Betty Hazelden Ford Foundation revealing alarmingly high rates of mental health distress among lawyers, the ABA's National Task Force on Lawyer Well-Being published *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*. The publication is an appeal to numerous stakeholders in the legal field to build infrastructures that support attorney wellbeing. It "recommend[s] that legal employers provide education and training on wellbeing-related topics and recruit experts to help them do so," citing that "a number of law firms already offer wellbeing-related programs, like meditation, yoga sessions, and resilience workshops."

## Bang for your Buck

Law offices can take many paths to respond to the ABA's call to action, yet mindfulness is a relatively simple, cost-effective, and yielding place to start. While mindfulness itself is not a panacea to the many stress-related health challenges that lawyers face, it does offer concrete tools that, if practiced, result in real-life change. One benefit to mindfulness practices is that they don't wear out or become irrelevant, and they can be expanded on over time. In addition, the financial investment is relatively low, as an entire workforce—management, lawyers, and support staff—can be trained at the same time using the same curriculum.

Finding a trainer who is not only an expert in mindfulness, but is also versed in law, can make the material more relevant and tailored to your legal team, increasing the likelihood of follow-through. In my experience as a mindfulness-based resilience trainer, a one-shot office-wide training is an effective way to introduce basic mindfulness concepts and gauge interest and receptivity to integrating mindfulness into the workplace. If your team buys in, an ongoing course, such as one that meets weekly for six to eight weeks—in person or virtually—and provides time for skill-building and practice will most effectively "aerate the water in your tank" and lay the foundation for infusing a "mindfulness mentality" into your firm culture.

## How Mindfulness Improves your Mind and Your Bottom Line

One of the most important benefits of mindfulness is its ability to promote positive neuroplasticity. Neuroplasticity is your brain's ability to rewire itself by growing new neural networks that inform the way you cognitively function, impacting the way you think about, perceive, and remember things. This affects your current decision-making and informs the actions you take, and it can have a significant impact on the success or failure of our law practices.

Unfortunately, the practice of law can impact our neuroplasticity in uniquely adverse ways. Being steeped in our clients' problems all day and being paid to remain hypervigilant to what could go wrong has consequences. It grows neural networks that over time can cause lawyers and support staff to perceive the world and its people as contentious. This perspective can cause both individuals and entire legal teams to feel pessimistic, jaded, and wary. We are less effective when our office culture is poisoned by pessimism as we are more prone to miss opportunities that could resolve conflicts—whether with clients, staff, opposing counsel, courts, or in our personal relationships. Instead of moving quickly toward resolution, we may instead ruminate for days on the problem.

Having the tools to successfully navigate conflict is a large part of effective law office management. Mindfulness tools can not only help individuals and teams notice when they feel stuck due to a pervasive "pessimistic perspective," but can also provide new options for resolving conflict. Mindfulness tools that promote positive neuroplasticity and buttress clearer thinking inspire the kind of creative problem solving that makes our internal operations run smoothly. Creative problem solving also provides our clients with better options, and better options often lead to greater client satisfaction, and greater client satisfaction may naturally lead to optimal business growth.

## An Exercise to Build Positive Neuroplasticity through Mindfulness

Pay attention to how much time your team spends in meetings (or even in casual conversation) focusing on what's "going wrong" or what needs to be fixed. Then notice how much time is spent praising what's "going right." While it is normal to focus on problems that need solving, you can con-

sciously build positive neuroplasticity by spending just a few minutes each day taking stock of your successes.

Try this:

1. Take a moment to pause in your workday.
2. Write down five successes your team has recently accomplished (be mindful to suspend all judgment of how it could have gone better).
3. During your next team meeting, or in your next casual encounter with a team member, bring up one of those successes.
4. Talk about what makes the success meaningful to you and how it ties into the goals/mission of the firm.
5. Appreciate specific team members (or the individual with whom you're talking) for specific ways that they contributed to the success.
6. Notice ways—large or small—the conversation positively impacts you and/or your team.

## Collateral Benefits of Bringing Mindfulness Training to Your Firm

Participants in firms where I have conducted mindfulness training report feeling more connected to their colleagues as a result of the training. They convey how helpful it is to have a shared professional experience that is not casework-specific. They also comment that it is refreshing to have something work-related but not legal to talk about, and how remarkable it feels to be learning something new alongside managing partners. The observation I hear most frequently relates to how relieving it is to have a shared language around stress and wellbeing, and a better understanding of how to manage stress as a team. These anecdotal comments about the collateral social benefits of firm-wide mindfulness trainings support the task force's recommendation for law firms to "actively combat social isolation and encourage interconnectivity" as a way to support lawyer wellbeing.

## Take a Step

You can introduce mindfulness into your firm's culture or take your firm's "mindfulness mentality" to the next level in many ways. Whether you or your team members are new to mindfulness or are already steeped in it, ask yourself, "What is the next best step for

CONTINUED ON PAGE 38

# Self-Care vs. Car Wrecks: A Compassion Fatigue Story

BY ANONYMOUS

I am smart. I really enjoy using my smarts to solve problems: logic problems, crossword puzzles, strangers needing directions, my clients' problems, my friends' problems, and my family's problems. But, fixing problems has a sinister side, just like any addiction, and one can develop compassion fatigue.



The best way to explain “compassion fatigue” comes from my therapist. During a session,

as I was throwing off my defensive statements to her regarding “not caring” or “it’s not my problem,” she openly scoffed that I enjoyed fixing other’s problems the same way alcoholics drink beer. She observed that I would never be the person who just didn’t care. She is so right. I like helping people. I like being smart and solving problems. I discovered, however, that the bad side of caring too much and about the wrong things can lead to not caring at all about most everything.

My story starts sometime in 2014. On my way to work, I started (at least once a week) contemplating driving my car off a seven-to-eight foot cliff overlooking the railroads. At the time, my family law practice was thriving, and I doubt anyone could have known the feelings and thoughts that I was having. The thoughts increased in frequency, but each time I had these thoughts, I always convinced myself not to do it because I couldn’t guarantee that I wouldn’t kill myself or inflict life-long trauma, which would just cause more problems. I didn’t want to die. I just wanted a break from my life. However, each day I invested a little more time in trying to plan how I could do it and manage to get a short stint in the hospital

and a much-needed break.

I tried so many things to stop the thoughts and get over being so tired all the time. I tried vacations. I went to the beach, the mountains, Florida, and New York City. But I’d be exhausted before I left on the trip and even more exhausted upon my return, faced with catching up on the backlog. Not only didn’t they fix my problem, vacations seemed to exacerbate it.

Diet and exercise helped somewhat. I was running a 5K a month and participating in Crossfit and Spartan races. I was the most physically fit that I have ever been in my life during this same time. No processed foods for me. This was wonderful compared to my

chubby, middle-school days where I hated the PE and would eat an entire pan of Rice Krispy treats in a single sitting. Unfortunately, except for the hour or so that I was participating in the exercise or event, it really didn’t change any of my thoughts or my mentally exhausted state.

Sleep was minimal during this time. I routinely woke up at 3 AM and couldn’t go back to sleep because of thoughts racing through my head. I stayed up late at night rehearsing my statements for trial, arguments that would usually never even be spoken. I considered going to the doctor, but I had heard strange things about sleep meds like Ambien. I didn’t want to murder someone in



my sleep or go parading around my neighborhood in the nude, so I stayed on course with my preferred plan—contemplating my car wreck/hospital stay.

This went on for about a year, until I had had enough. I decided I would address my problem, even though I had no idea what my problem actually was at that time. Unaware of how much I was subverting my needs to everyone else's, my life presented the perfect opportunity for me to finally focus on myself. My 11-year-old was going on a school trip for almost a week with no access to a cell phone or me. You see, I didn't want to upset her or inconvenience her, because I was responsible for driving her to school, helping her with homework, and generally making sure her life was good. Plus, her not having a cell phone meant that if she had any problems, then she couldn't call me to fix the problem. In addition, I didn't have court that week either. My clients didn't have pressing problems to fix! So, I dropped her off at school and watched her get on the bus. Now I could finally focus on me and this problem, whatever it was. I was sure a trip to the doctor would somehow fix it all.

My regular doctor couldn't see me. I started to get frazzled and after casting about for ways to avoid doing so, I finally relented and told my husband that I needed to go to the ER. At the ER all went smoothly until the doctor asked me the standard question, "Are you suicidal?" Even though I knew the question was coming, I hadn't rehearsed or even thought about what I'd say. However, the most profound words came to me regarding my current state of mind and problem. I blurted out, "I don't think so, but I don't know what I am going to do if I have to hear another f\*\*\*ing person's problems." With that statement I meant "person" to include every single living thing on this earth: family, friends, clients, political activist groups, donation seekers, Leonardo DiCaprio, random strangers asking for directions...EVERYONE! He responded with, "So possibly homicidal or suicidal," and laughed kindly.

I got through that day and was given a prescription for the normal stuff doctors hand out for depression and anxiety. I scheduled some follow-up doctor appointments. It was a lackluster resolution. None of the medications worked for me; they only exacerbated my problems over the following week. I discovered I don't synthesize those medications well, so they were not going to be

an option for me, which was thoroughly disappointing. Not to mention, my kid was back and court appearances were looming. This problem seemed to now be out of hand. I couldn't just return to the way things were before, but did not know what to do differently.

It was at my first follow-up appointment with my doctor that my "problem" started getting defined. My doctor said that I didn't have a support system. Eureka! I KNEW IT! I finally had confirmation that I was surrounded by hapless, greedy, needy people that constantly took and took and took from me. So it turns out they were all jerks after all! Then he went on to say, "You have no support system because you don't tell anybody what is going on and instead just try and handle it all on your own."

Wait.

What?

But there it was. I was the jerk. I thought I was so smart. That I was above it all. That I did not need community. You did. But not me. I was different and special. The realization was gut wrenching.

I was told I could resolve my issues by "just sharing." Ah, ok. Maybe "just sharing" is easy for you. Not me.

Here is where my anxiety started amping up. In order to be effective, my sharing had to be regardless of how others responded to what I was sharing. And I needed to share it all, especially the toes-curling-in-my-shoes stuff. I discovered that I was really a people-pleasing, low-self-esteem fraud. I faked life well. I pretended to have it all together, but I was constantly speaking unkindly to myself. I created unrealistic expectations for myself and was way too consumed by others' perception of my life. Or what I imagined their perception to be. In sharing, I started really discovering what was going on in my head and my life and why I was always so tired. I was exhausted because I was battling this inner jerk. As I shared this with my support people, I realized that I could change the script going through my head. Noteworthy, my support system was and still is a work in progress. Some people didn't make the cut and I limited their role in my life. I am working on me and I need truly supportive friends and allies to help with that project.

The lone soldier approach doesn't work. Neither does working by yourself on problems that you aren't properly trained to fix. Reluctantly, my next step was an appointment

for therapy with a psychologist. I hated the thought of talking to a therapist, but it didn't matter, because I needed to talk to one. Just as many people with legal problems need an attorney but hate coming to and paying for one, I knew going to a therapist was the best thing to do. I was sure a therapist would want to talk it out and want me to say that I was depressed, and anxiety-ridden, and admit that attorneys just have sucky lives. Well, she didn't. She told me about "Compassion Fatigue." It's like burnout, but it is from dealing with other peoples' problems. For example, like where you solve people's problems for a living but also put yourself in a position to have everyone come to you with their problems because you really like solving others' problems, and they don't know to stop because you haven't told them to stop and now you're ill because of it. She explained that in her profession, compassion fatigue is common and they have workshops, conferences, and retreats to deal with compassion fatigue/vicarious trauma.

The first thing that she taught me was that I need to put myself first. If I am exhausted, I am of no use to my clients, my family, or anyone. She spoke about the teapot needing to be full in order to pour tea out for others. I left therapy with homework. My homework was to do three things over the weekend that would bring me joy. She could have asked me to murder someone and it would have been easier. I seriously couldn't come up with anything. I gave up golf years ago because I didn't have four to five hours to be detached from the world. This rationale is why I gave up most things that I enjoyed: I was too busy solving others' problems or being there for others to be there for myself. I completed her homework, but not until stressing about it all weekend. I ended up with a nice bath, Rice Krispy treats, and moving furniture around in my house. I stumbled on to the big secret to joy that weekend—it comes from the simplest of things. I am happy to say I can easily come up with three things to do everyday to bring myself joy.

Next, I learned how to prevent compassion fatigue with self-care. Honestly, I had no idea what that meant other than taking a bath and getting my eyebrows done. Being an attorney really put me in a good place to help myself here. I started doing research and reading about self-care. After a few years of managing this, I can say that my self-care seems to be

CONTINUED ON PAGE 37

# Celebrating *Pro Bono*: Successful Collaboration Supports Employment through Social Enterprise

*Pro Bono* Week is an effort led by the American Bar Association to recognize, recruit, and engage lawyers who positively contribute to the growing unmet legal needs in their communities by providing *pro bono* legal services. Every day, committed lawyers provide free legal services to individuals and organizations that cannot afford an attorney. In celebration of *Pro Bono* Week, held October 21-27, 2018, North Carolina Interest on Lawyers' Trust Accounts (NC IOLTA) recognizes the collaborations happening across our state that make *pro bono* possible.

As the charitable arm of the North Carolina State Bar, NC IOLTA administers grants to civil legal aid organizations and administration of justice initiatives statewide. Since its creation in 1983, NC IOLTA has administered over \$90 million dollars to organizations that provide civil legal assistance for low-income individuals who lack the ability to pay an attorney to resolve legal issues relating to their basic human needs. In 2016, with funds received by IOLTA through the Bank of America settlement, IOLTA made grants to fund community economic redevelopment legal services projects. Each year, IOLTA also supports volunteer lawyer programs that engage private attorneys as volunteers.

With a 40-year track record of pursuing justice by providing legal assistance and advocacy to help low-income people in western North Carolina meet their basic needs and improve their lives, Pisgah Legal Services received dedicated funding from IOLTA to enhance their already successful community redevelopment initiatives. As part of that project, Pisgah Legal Services supports the creation, expansion, and operation of nonprofits engaged in community redevelopment work in their six-county service area.

One such community partner is Green

Opportunities, a dynamic, innovative nonprofit based in Asheville, whose mission is to train, support, and connect people from marginalized communities to sustainable employment pathways. Green Opportunities offers technical training, life skills training, industry-recognized credentials, and personalized support services to unemployed and underemployed residents of Asheville and Buncombe County. While their vision and use of social enterprises, such as Southside Kitchen Catering and Southside Woodworks, has led to a sustainable business structure to benefit their nonprofit work, it also involves complicated legal issues including nonprofit, business, and tax law.

In creating their most recent social enterprise, UpStaff Personnel, Green Opportunities reached out to Pisgah Legal Services for advanced legal assistance. With the breadth of corporate legal expertise required to meet their needs, Pisgah Legal Services' staff attorney, Justin Edge, and executive director, Jim Barrett, began reaching out to current *pro bono* volunteers and law firm partners.

Early in their IOLTA-funded community redevelopment project, Pisgah Legal Services' attorneys had connected with Sylvia Novinsky, the director of the NC Pro Bono Resource Center, which was launched by the NC Equal Access to Justice Commission in April 2016. The Pro Bono Resource Center was formed to assist lawyers in fulfilling their professional responsibility under Rule of Professional Conduct 6.1 with the goal of ultimately increasing *pro bono* participation statewide. Since its inception, the Center has launched a website ([ncprobono.org](http://ncprobono.org)) with a list of searchable *pro bono* opportunities, collaborated with numerous bar associations and legal services providers, worked with the NC Supreme Court to recognize attorneys who report 50 hours of *pro bono* legal services in

## IOLTA Update

- Income received from participating financial institutions that hold IOLTA accounts through August of 2018 has increased by 34% compared to 2017.
- Specifically, interest income received in August of 2018 was 87% more than that received in August of 2017.
- The IOLTA Board of Trustees will review 2019 grant applications and award grants at the November grant-making meeting.
- During the October 15 meeting of the IOLTA Board of Trustees, two grants were approved for collaborative projects to serve victims of Hurricane Florence. The two grant awards total \$226,600.

a given year, and offered trainings and other resources to facilitate *pro bono*.

Sylvia and the NC Pro Bono Resource Center also frequently play the role of matchmaker, pairing interested lawyers and law firms seeking to contribute their skills together with legal services organizations and community groups in search of quality, committed volunteers.

Through its broad network of *pro bono* attorneys, the Pro Bono Resource Center identified an eager *pro bono* team to work with Green Opportunities: attorneys Ran Bell and Alyse Young of Womble Bond Dickinson (US) LLP. Ran Bell, of counsel at Womble Bond Dickinson, has worked with nonprofit organizations for 25 years, bringing detailed knowledge of formation, expansion, management, and dissolution of 501(c)(3) charitable organizations and other

CONTINUED ON PAGE 33



# FOLLOW THE STATE BAR

Follow us on

twitter

twitter.com/NCStateBar

Like us on

facebook

facebook.com/NCStateBar

**UNITED STATES POSTAL SERVICE® (All Periodicals Publications Except Requester Publications)**

1. Publication Title  
North Carolina State Bar Journal

2. Publication Number  
0 0 0 1 - 5 0 4 0

3. Filing Date  
9-21-2018

4. Issue Frequency  
Quarterly

5. Number of Issues Published Annually  
4

6. Annual Subscription Price  
\$10.00

7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4®)  
217 E. Edenton Street  
Raleigh, NC 27601

8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer)  
217 E. Edenton Street  
Raleigh, NC 27601

9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)  
Publisher (Name and complete mailing address)  
Jennifer Duncan  
217 E. Edenton Street  
Raleigh, NC 27601  
Editor (Name and complete mailing address)  
Jennifer Duncan  
217 E. Edenton Street  
Raleigh, NC 27601  
Managing Editor (Name and complete mailing address)  
Jennifer Duncan  
217 E. Edenton Street  
Raleigh, NC 27601

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)  
Full Name  
North Carolina State Bar  
Complete Mailing Address  
217 E. Edenton Street  
Raleigh, NC 27601

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box ☒ None

Full Name  
Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)  
The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:  
☒ Not Changed During Preceding 12 Months  
☐ Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

PS Form 3526, July 2014 (Page 1 of 4) (see instructions page 4) PSN: 7530 01 000 9031 PRIVACY NOTICE: See our privacy policy on www.usps.com

13. Publication Title  
North Carolina State Bar Journal

14. Issue Date for Circulation Data Below  
Fall 2018

15. Extent and Nature of Circulation

		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		33,479	34,277
b. Paid Circulation (By Mail and Outside the Mail)	(1) Mailed Outside-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	32,560	33,048
	(2) Mailed in County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above nominal rate, advertiser's proof copies, and exchange copies)	0	0
	(3) Paid Distribution Outside the Mail including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS®	0	0
	(4) Paid Distribution by Other Classes of Mail through the USPS (e.g., First-Class Mail®)	0	0
c. Total Paid Circulation (Sum of 15b (1), (2), (3), and (4))		32,560	33,048
d. Free or Nominal Rate Distribution (By Mail and Outside the Mail)	(1) Free or Nominal Rate Outside-County Copies included on PS Form 3541	0	0
	(2) Free or Nominal Rate in County Copies included on PS Form 3541	0	0
	(3) Free or Nominal Rate Copies Mailed at Other Classes through the USPS (e.g., First-Class Mail)	400	800
	(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)	250	250
e. Total Free or Nominal Rate Distribution (Sum of 15d (1), (2), (3), and (4))		650	1,050
f. Total Distribution (Sum of 15c and 15e)		33,210	34,098
g. Copies not Distributed (See Instructions to Publishers #1 (page #3))		269	129
h. Total (Sum of 15f and 15g)		33,479	34,227
i. Percent Paid (15c divided by 15f times 100)		98.04%	96.02%

\* If you are claiming electronic copies, go to line 18 on page 3. If you are not claiming electronic copies, skip to line 17 on page 3.

No electronic copies.

17. Publication of Statement of Ownership  
☐ If the publication is a general publication, publication of this statement is required. Will be printed in the Winter 2018 (Dec.) issue of this publication. ☐ Publication not required.

18. Signature and Title of Editor, Publisher, Business Manager, or Owner  
Jennifer Duncan  
Date  
10/30/2018

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

PS Form 3526, July 2014 (Page 2 of 4)

# Christon Halkiotis, Board Certified Specialist in State Criminal Law

BY DENISE E. MULLEN, ASSISTANT DIRECTOR FOR THE BOARD OF LEGAL SPECIALIZATION

I recently had an opportunity to talk to Christon Halkiotis, a board certified specialist in state criminal law practicing in High Point. Christon, a native of Chapel Hill, graduated from Rutgers University in 2000, where she majored in political science and minored in philosophy. She returned home and graduated cum laude with a JD from the North Carolina Central University School of Law in 2004. Christon's favorite law school activities were serving as articles editor of the *Law Review* during her third year, as well as interning in the Orange County District Attorney's Office with then-DA (now Senior Resident Superior Court Judge) Carl Fox and his wonderful assistants. She never went out for any mock trial activities in school, since she was having way too much fun and learning so much trying real cases in Orange County District Court. Christon was hired by the Guilford County District Attorney's Office shortly after passing the bar exam in 2004. She has since prosecuted in district court in Greensboro and High Point, juvenile court in High Point, and since 2007 she has been assigned to prosecute felonies in superior court in High Point. She became a board certified specialist in state criminal law in 2014. Following are some of her comments about the specialization program and the impact it has had on her career.

**Q: What were your early indications toward criminal law?**

I knew I wanted to be a lawyer from an early age, but I cannot remember one specific day where I decided that criminal law was what I wanted to practice, although it always greatly interested me. By the time I finished college, I knew I wanted to be a prosecutor,

and I specifically chose to attend a state law school so that my financial indebtedness would not prevent me from seeking employment as an assistant district attorney.

**Q: Why did you pursue board certification with the State Bar?**

Early on in my career, I set board certification as a personal goal for myself to know that I had attained a benchmarked level of professional expertise in my practice area. After ten years of practicing criminal law exclusively, I decided it was time to apply to sit for the exam. The year I applied to take the exam (2014) was the first year that the

NC LEAF stipend to cover the application expense for public service lawyers was available. I was thankful for that help.

**Q: How has certification been helpful to your career and to your work as an assistant district attorney?**

Certification allows me to bring credibility to the table before people even meet me. Women are still underrepresented in superior court criminal litigation, and I feel that certification helps me be taken more seriously. I prosecute a large number of child sex cases, felony domestic violence cases, and homicides, and it is nice to be able to tell victims in my most serious cases that I have attained a certification commensurate with that of some of the best defense attorneys.

**Q: How does your certification benefit the criminal justice process and the public?**

Certification can inspire a great deal of confidence from the public. I believe that if more judges, assistant district attorneys, and assistant public defenders become certified, that can help increase public confidence in the court system and the criminal justice process as a whole. We all benefit as a society when ethical, experienced, and

excellent trial attorneys choose to work as career prosecutors and career defenders. If more of them were certified, it could go a long way toward helping the general public realize just how valuable these public servants truly are.

**Q: Are there any hot topics in your specialty area right now?**

There are a number of hot topics in superior court criminal litigation right now. One in particular has come up multiple times for me over the past year. I am assigned all of the petitions for removal from the sex offender registry in High Point, as well as the satellite-based monitoring reasonableness hearings. After the United States Supreme Court ruling in *Grady v. North Carolina*, 135 S. Ct. 1368 (2015), which held that North Carolina's satellite-based monitoring program is a search under the Fourth Amendment, and therefore must be reasonable, we have seen multiple North Carolina appellate court rulings in the last year regarding satellite-based monitoring and how it may or may not be reasonable as applied to variously situated defendants.

**Q: What do lawyers who don't handle criminal cases need to know from a criminal law specialist?**

Any lawyer who doesn't handle criminal cases should never go to court and try to handle a criminal case. There is simply too much at stake for the defendant, even in traffic cases. If you don't know a good criminal defense attorney to refer someone to, find a specialist on the list and make a referral that way. Whenever someone asks me for a recommendation, and I don't know anyone in the field in that part of the state, the specialist list is always what I pass along to them and suggest they pick someone who is certified in that area.

**Q: How do you stay current in your field?**

The additional CLE requirement for spe-



Halkiotis

cialists certainly helps to ensure that I stay current on the law in my field. In addition, I subscribe to and read the School of Government's *North Carolina Criminal Law* blog religiously, as well as the case law update emails from the School of Government. The *North Carolina Criminal Law* blog was such a useful tool when I was studying for the specialization exam. Multiple essay questions had fact patterns that came straight out of real North Carolina criminal appellate cases, which the blog had addressed with specific case analyses within the year leading up to the exam.

**Q: Do you work with any volunteer organizations or other groups, related to work or outside of work, that you enjoy?**

I am currently serving as the 2018-2019 president of the Junior League of Greensboro. I also volunteer, along with my Pembroke Welsh Corgi, Orso, as a registered pet therapy team with the Greensboro chapter of Alliance of Therapy Dogs.

**Q: How do you see the future of specialization/board certification? What would you say to encourage other lawyers to pursue**

**certification?**

I hope that eligible lawyers continue to seek board certification, especially women, minorities, and public service attorneys. There is no reason not to pursue certification! As the six law schools in our state continue to graduate new classes of attorneys to populate our ranks, board certification is a great way to make sure that you stand out as someone who has reached the highest level of professional expertise in your practice area. Even though a large amount of studying is necessary, it will be beneficial since you will review so much material in your practice area. The reviews I did of Chapters 14, 15, 15A, 20, and 90 of the NC General Statutes during my exam preparation were worth their weight in gold to me in my everyday practice. For public service lawyers, remember that the NC LEAF stipend is available to cover the application expense and apply for that early! ■

*For more information on how to become certified, visit our website at [nclawspecialists.gov](http://nclawspecialists.gov).*

## IOLTA Update (cont.)

tax exempt entities. Alyse Young, associate and member of the firm's *Pro Bono* Committee, focuses her practice on transactional and corporate matters, including acquisitions, divestitures, mergers, corporate reorganizations, and general corporate governance matters.

"The Pro Bono Resource Center is honored to play a role in bringing together private attorneys with unmet legal needs. This particular collaboration truly highlights the importance and value of that collaboration," says Sylvia.

With a *pro bono* team assembled, Pisgah Legal Services was able to expand resources available to Green Opportunities. "Ran and I enjoyed collaborating with Justin Edge and working with the Green Opportunities and UpStaff Personnel team to accomplish their goals," says Alyse. "Justin was an invaluable partner in the process, providing critical guidance and knowledge regarding Green Opportunities."

Each partner of the collaboration

focused on their areas of expertise. Between Justin's relationship and in-depth knowledge of Green Opportunities, and Alyse and Ran's extensive experience in corporate, nonprofit, and social entrepreneurship issues, the team found a favorable business structure that would not adversely affect Green Opportunities' non-profit tax-exempt status and would still allow for the social enterprise to provide a holistic approach to community and employment impact in Asheville.

UpStaff Personnel is now a thriving social enterprise, which provides motivated job seekers with a pathway to career-track employment, while offering Asheville-area employers a screened, dependable, and diverse workforce.

NC IOLTA is proud to help support the legal aid community and remains thankful to attorneys around the state who fulfill their professional responsibility of providing *pro bono* legal services to enhance the lives of those with the most need.

To learn more about how to get involved with *pro bono* opportunities in North Carolina, visit [ncprobono.org](http://ncprobono.org). ■



# Ready for your next challenge?

The next milestone is within reach...  
apply for specialty certification in 2019!

Appellate Practice • Bankruptcy  
Criminal • Elder • Estate Planning & Probate  
Family • Immigration • Juvenile Delinquency  
Privacy & Information Security (NEW!)  
Real Property • Social Security Disability  
Trademark • Utilities • Workers' Compensation

Accept the challenge.

919.828.4620  
[nclawspecialists.gov](http://nclawspecialists.gov)



BOARD OF LEGAL SPECIALIZATION  
NORTH CAROLINA STATE BAR



# Talking to the Judge (or Maybe Not)

BY JUDGE MICHAEL L. ROBINSON AND ELLEN MURPHY

In my two years and three months on the superior court bench, I have been unpleasantly surprised by the frequency with which practicing attorneys attempt to engage in *ex parte* communications with the court. And even where the communications aren't technically *ex parte*, I despair that attorneys fail to grasp the rules regarding informal communications with presiding judges.

As a result, I teamed with Wake Forest University Law Professor Ellen Murphy to, hopefully, shed some practical light on the rules as they relate to this subject.

## Situation No. 1:

It's the week before a motion hearing in state superior court that will have important consequences to your civil case. Based on your previous experience with the judge, you believe providing a memorandum of law would both help the judge more efficiently understand the issue and improve your chances of success. You have dutifully researched the law and have prepared the brief. You would like to email a copy of the relevant motion and your memo to the judge with a request that, to the extent the judge's busy schedule permits, he/she review the materials prior to the hearing. May you do so?

## Ex Parte Communications are Prohibited Except in (Very) Limited Circumstances

North Carolina Rule 3.5(a), revised in April 2018, prohibits *ex parte* communications about a matter with the presiding judge or official. While the Rule seems clear on its face, in our experience, the general prohibition against *ex parte* communications with a presiding judge is poorly understood and frequently disregarded. Rule 3.5(d) defines *ex parte* communication as "a communication on behalf of a

party to a matter pending before a tribunal that occurs (1) in the absence of an opposing party, (2) without notice to that party, and (3) outside the record." If each of these three factors is present, the communication is considered *ex parte*.

The policy behind the prohibition is straightforward: "[a]ll litigants and lawyers should have access to tribunals on an equal basis." Comment [8] to Rule 3.5. When a lawyer communicates with a presiding judge about a pending<sup>1</sup> matter, it "might have the effect *or give the appearance of* granting undue advantage to one party" over another. *Id.* (Emphasis added.)

Comment [8] to Rule 3.5 provides additional guidance:

A lawyer should not communicate with a tribunal by a writing unless a copy thereof is promptly delivered to opposing counsel or to the adverse party if unrepresented.

Neither the Rule nor its comments define "promptly." However, simultaneous delivery (if not delivery to opposing counsel in advance of delivery to a judge) is optimal. In any event, and on a "worst case" basis, opposing counsel and parties should receive the communication with sufficient time to respond.

Lawyers are not alone in their duty to avoid *ex parte* communications. The Code of Judicial Conduct provides guidance to judges as well. Canon 3 A.(4) states that "[a] judge should accord to every person who is legally interested in a proceeding...full right to be heard according to law, and, except as authorized by law, neither knowingly initiate nor knowingly consider *ex parte* or other communications concerning a pending proceeding."

Most simply, with respect to *ex parte* communications, the prohibition is pretty straightforward—lawyers shouldn't do it and judges shouldn't allow it. Therefore, with reference to Situation No. 1, you

should not send your memo without simultaneously copying the other side.

## Situation No. 2:

Having decided you couldn't properly send your memo, you attend the hearing, during which opposing counsel argues facts and law that you believe are inaccurate. You didn't think to say so at the time, but following the hearing, you decide it would aid the court in making its decision if you sent a letter to the judge. The purposes of the letter are to point out opposing counsel's misrepresentations and to provide deposition testimony and case law illustrating the true state of the facts and the relevant legal precedents. May you do so?

## Informal Communications with the Court

Often, counsel for all sides of a litigated matter agree that communication with the presiding judge is necessary, or at a minimum advisable. Additionally, when a judge has a disputed motion under advisement, one or more parties may want to bring information to the court's attention because counsel believes there are things the judge should know before ruling. This is often accomplished by a letter delivered to the judge's chambers or, more frequently today, by email.

Some judges worry about the potential onslaught of "informal" communications by email or letter outside of formal proceedings in the case, and the inability of opposing parties to adequately respond. Some of these same jurists believe that informal communications about a disputed issue are improper. They are not without support for their position.

First, Rule 7 of the North Carolina Rules of Civil Procedure sets forth that only certain pleadings and motions are permitted to be filed in a civil proceeding.

Second, 98 Formal Ethics Opinion 13,

Written Communications with a Judge or Judicial Official, prohibits informal communications with the court except in limited circumstances.

This formal ethics opinion provides that “to avoid the appearance of improper influence upon a tribunal, informal written communication with a judge or other judicial office should be limited to”:

- 1) Communications permitted by law or the rules or written procedures of the tribunal;
- 2) Written communications...prepared pursuant to the court's instructions;
- 3) Written communications relative to emergencies, changed circumstances, or scheduling matters....; and
- 4) Written communications sent to the tribunal **with the consent** of the opposing lawyer or opposing party if unrepresented.

With respect to exception number 1, some courts have enacted “local” rules of the court to permit informal communications about disputed matters.<sup>2</sup>

In many case management orders entered in the business court, words similar to the following are included:

The court will actively monitor the progress of the case through the case management procedures set forth in the BCR and this Order. *To do so efficiently, the court and the parties may utilize the medium of email for some matters where a formal motion or other filing may not be efficient, including, for example, scheduling and BCR 10.9(b) disputes.* Any such email communication remains subject to Rule 3.5 of the North Carolina Rules of Professional Conduct and BCR 6.4, which requires all such communications to be copied to all counsel of record and all unrepresented parties. Unless responding to a court inquiry, the court anticipates that the parties will endeavor, wherever possible, to communicate with the court by email only after prior notice to each other, and the communicating party shall, where appropriate, reflect in their communication with the court the position of all other parties concerning the matter at issue. (Emphasis added.)

Pursuant to Business Court Rule 10.9, a party may not file a motion to compel discovery without first emailing the court, describing the dispute in question, and

seeking permission to file a discovery motion. Opposing counsel is provided an opportunity to respond, again expressly by utilizing email. Each of these communications must be simultaneously copied to all counsel of record and unrepresented parties.

Absent a local rule permitting informal communication with the court, the only way for a lawyer to communicate with the judge off the record is: (1) at the court's direction, (2) with consent of all other counsel, or (3) as a result of and relating to an emergency.

As a practical matter, an attorney who has a good relationship with opposing counsel likely can get consent to submitting supplemental information following a hearing. If this is not possible, and there is not a true emergency necessitating the communications, the attorney must attempt to obtain court authorization.

How does a lawyer get the court's permission to send an informal communication? There are several potential ways. First, consider asking for permission during the hearing. If you think there may be merit to supplemental briefing, give the court (and opposing counsel) notice during your argument and ask whether the court would like and permit supplemental briefing. Most judges I know want badly to make a correct decision on the law and the facts, and therefore welcome supplemental briefing.

Second, most judicial districts have local procedural rules about calendaring of motions and trial, and more technical/procedural issues. Consider contacting the leaders of your local bar and the senior resident judge of your judicial district seeking an amendment of these local rules to permit informal communications with the

court in appropriate circumstances.

## A Final Note—Reconsideration of 98 FEO 13

The North Carolina State Bar Council is considering the continuing advisability of 98 FEO 13 following the revision of Rule 3.5 of the Rules of Professional Conduct. If you have thoughts about the ethics opinion and how it might be improved, you are encouraged to reach out to the State Bar or to your local State Bar councilor. ■

*Michael L. Robinson, a special superior court judge for complex business cases, is former chair of the Ethics Committee of the North Carolina State Bar. Professor Ellen Murphy is assistant dean of instructional technologies and design at Wake Forest University Law School and teaches professional responsibility.*

## Endnotes

1. A matter is “pending” before a particular tribunal when that tribunal has been selected to determine the matter or when it is reasonably foreseeable that the tribunal will be so selected. Rule 3.5(d)(2).
2. In the North Carolina Business Court where I work, for example, communication by email is not only an indispensable part of the court's operation, use of email as a mode of communication by parties with the court is expressly incorporated into, and in at least one instance mandated by, the Business Court Rules (“BCR”). BCR 10.9(b)(1) provides: “Before a party files a motion related to discovery, the party must initiate a telephone conference among counsel and the presiding business court judge about the dispute. To initiate this conference, a party must email a summary of the dispute to the judicial assistant and law clerk for the presiding business court judge and to opposing counsel....Any other party may submit a response to the summary...and must be emailed to the judicial assistant and opposing counsel....”

## 2019 Meeting Schedule

Below are the 2019 dates of the quarterly State Bar Council meetings.

January 15-18	NC State Bar Headquarters, Raleigh
April 23-26	NC State Bar Headquarters, Raleigh
July 16-17	Chetola Resort, Blowing Rock
October 22-25	NC State Bar Headquarters, Raleigh
<i>(Election of officers on October 24, 2019, at 11:45 am)</i>	

# Dollars and Sense—Making the Case for Three-Way Reconciliation and Quarterly Transaction Review

BY LEANOR BAILEY HODGE, TRUST ACCOUNT COMPLIANCE COUNSEL

The failure to perform three-way reconciliation of the general trust account is one of the more common violations found during the random audit process. It seems this ethical duty is dreaded even by those lawyers

who regularly perform it in accord with the requirements of the Rules of Professional Conduct. Interestingly, of the attorneys whose trust accounts were audited this past quarter more failed to perform quarterly random transaction reviews than failed to perform three-way trust account reconciliation, suggesting that there may be a level of dread building around the quarterly transaction review process as well. As a trial lawyer, I have found that I am most effective when I am passionate about the cause. Here, I make the case for both the three-way reconciliation and the quarterly random transaction review. This case is easy for me to make because I believe in these processes and the value they bring. Performing these procedures yields good results for the public, the profession, and clients. Also, dutiful and regular three-way reconciliation of the general trust account and quarterly random transaction review of all trust and fiduciary accounts is good for lawyers.

## 1. Ethical Duty – Good for the Public and the Profession

Rule of Professional Conduct 1.15-3(d)(1) requires lawyers to reconcile quarterly the balance of the general trust account as shown on the following records: the general ledger, total of individual client/subsidiary ledgers with a positive balance, and the bank statement (adjusted after accounting for outstanding checks and outstanding deposits). Rule 1.15-3(i) requires lawyers to review quarterly the statement of costs and receipts, client ledger, and canceled checks for a random sample of transactions in the trust account (minimum of three), to verify that the disbursements were properly made and that no transactions were payable to cash. The Rules of Professional Conduct affirm for lawyers and declare to the public how seriously we take our professional responsibilities. A thoughtful reading of the Rules of

Professional Conduct shows that lawyers recognize that we receive many things in trust: information, funds, and non-monetary property. Rule 1.15 and its subparts communicate that when lawyers receive funds in trust, we will be vigilant in our maintenance and safeguarding of such funds. As a self-regulating profession, recognition of this fact is important to maintaining the public trust and to maintaining integrity as a profession. Thus, the ethical duty to perform the requisite reconciliations and reviews is good for the public because it conveys to the public that when we receive their funds in trust, we do not take the grant of this trust lightly. Also, this rule is good for the profession as a constant reminder of the significance of such trust.

## 2. Practice Makes Proficient and Efficient – Good for Clients

Another reason to regularly perform three-way trust account reconciliation and quarterly random transaction reviews is that, like most things in life, the more you do it the more effortless it becomes. For a busy lawyer, sitting down quarterly (or more often) to review and analyze trust account records and the data needed to perform the required reconciliations and reviews can seem onerous and tedious. While as trust account compliance counsel I do not maintain a trust account that requires me to perform reconciliations and random transaction reviews, I review a LOT of both for the trust accounts of others, so I understand very well the time and effort required to carry out this charge. I discovered that with more frequent performance of these tasks, I became more adept at the process. Also, through discussions with lawyers who regularly (monthly as opposed to quarterly) perform the required reconciliations and reviews, I found that they also report increased efficiency, and thus, an improvement in the level of ease required to complete these exercises. Improved efficiency

### Escrow Consulting & Accounting, LLC

Protecting Your Trust Accounts

**Are Your Trust Accounts in  
Accordance with Rule 1.15?**  
*Protecting your business by...*

- Confirming Monthly and Quarterly Reconciliations Meet NC Bar Rules
- Validating Client Trust Ledgers Are Fully Funded
- Ensuring Trust Accounts Are in Compliance and Making Necessary Ledger Corrections
- Services vary from a one-time review of client prepared reports to ECA reconciling the trust accounts on a monthly basis.



**Dawn Cash-Salau**  
**252.531.4241**  
**TrustComplianceNC.com**

*Over 20 years of professional accounting experience*



in the processes designed to help safeguard entrusted funds is good for clients because it ensures that their funds remain protected. Additionally, a collateral benefit to the client of an efficient trust account manager is increased time and energy to focus on the substance of the representation.

### 3. Peace of Mind – Good for Lawyers

There are risks associated with maintaining one or more trust accounts, and those risks can be a source of anxiety for lawyers. Those risks include employee embezzlement and fraud. History has shown that trusted staff upon whom lawyers rely to help manage and maintain entrusted funds may instead help themselves to money in the trust account. In many instances, this embezzlement could have been detected if the lawyer had regularly performed three-way reconciliation of the trust account and quarterly random transaction reviews in accordance with the applicable rules. The same is true regarding the discovery of fraud. Increasingly, lawyers' trust accounts have been targeted by external actors perpetrating fraud. In some cases, the fraud is promptly discovered when a rightful recipient of a large sum of money

does not receive payment because a scammer was successful in getting the lawyer to disburse the funds to the thief and not the true owner. However, in other cases, the fraud is more passive and ongoing in the form of spoofed trust account checks for small amounts that can go undetected unless the lawyer regularly performs the prescribed reconciliations and reviews.

Another source of anxiety for lawyers is the random audit. Anyone who has ever been the subject of a random audit knows the angst that typically accompanies the news that you will be audited. While nothing can entirely alleviate this stress, knowing that the trust account is properly maintained and holds the funds you are required to keep in trust for your clients can certainly help minimize any anxiety. I have a friend who is fond of saying, "If your house is clean, you don't mind company." This is true of reconciliation and review as pertains to a random audit—when routinely performed, three-way reconciliation and quarterly random transaction review make the prospect of a random audit less of a concern. For lawyers, peace of mind can be that elusive holy grail. Performing

three-way reconciliation and quarterly random transaction reviews can support peace of mind, at least as it relates to trust account management, thereby moving lawyers one step closer to that seemingly impossible aim. I can think of many reasons why peace of mind is a good thing for lawyers, but I cannot conceive of even one reason why it is not.

There you have it. The case is closed; my argument is finished. I hope I have persuaded you, even if you dread the tasks, that regular three-way reconciliation of the general trust account and quarterly random transaction review of all trust and fiduciary accounts are good things worthy of the routine commitment of your time and attention. Such a commitment is our ethical duty, and regular completion of these acts can increase proficiency and efficiency in the execution of these tasks. Also, regular (at least quarterly) three-way reconciliation of the general trust account and quarterly random transaction review of all trust and fiduciary accounts can help foster lawyer peace of mind. Promotion of lawyer peace of mind is good for you, good for the public, good for the profession, and good for your clients. ■

---

## LAP (cont.)

balancing the joys of a 12- year old with the obligations of a 40+ year old. Sleep is first and foremost. I discovered that if I want good sleep, then I need a schedule for sleep, much like my morning schedule to get ready for my waking hours. No matter how good of a parent, attorney, caregiver, or friend that I can be, if I have eight to ten hours of sleep then I can be 500 times better. Second, I deserve just as much love and kindness as everyone else. I buy myself flowers. I skip work on Friday afternoons to watch *Star Wars* and Marvel movies. I really try to connect with the things that I enjoy. I have found that meditation and mindfulness greatly help me connect to finding those things that bring me joy and understanding the things that impede my joy. Lastly, practicing meditation and mindfulness helps me let go of a lot of useless thoughts and worry.

My new self-care regimen also meant a big change at work. I needed to set up and maintain good boundaries with clients. I don't give my cell phone number to clients

anymore. I don't email with my clients on the weekend, and they know upfront to never expect a response from me on the weekend. My clients need to be more invested in their case than I am, and they also need to have good self-care. I have advised lots of clients to seek therapy because I recognize their mental health issues or poor self-care. It makes so much sense because poor self-care can lead to numerous marital issues, thereby leading them to my office. Being more present to my needs has put me in a good place to give my clients really good advice for their lives and inevitably their cases.

I still really enjoy fixing other's problems, but I really enjoy working on my own, too. For years I have heard the remarks about attorneys fixing others' problems and neglecting their own. While that may be true, I also believe that attorneys have a very good skill set for solving problems, even when those problems are their own. As I look back I have enjoyed my learning experience and am so grateful for where I am today. I still want to solve others' problems, especially in the form of sharing my experience to help peers who

may be suffering from compassion fatigue. I am now a LAP volunteer and have shared this story at CLE events. It has been cathartic for me. So many lawyers have told me they relate to my story. It is not so hard sharing now. Not hard at all.

If you think my story sounds even remotely close to what you are going through, please look at the LAP website under "compassion fatigue" for some wonderful info and advice and call LAP. Hindsight being 20/20, if I had looked at that website earlier, then I could have prevented about a year of my suffering and started on the road to recovery sooner. ■

*The North Carolina Lawyer Assistance Program is a confidential program of assistance for all North Carolina lawyers, judges, and law students, which helps address problems of stress, depression, alcoholism, addiction, or other problems that may impair a lawyer's ability to practice. If you would like more information, go to [nclap.org](http://nclap.org) or call: Cathy Killian (western areas of the state) at 704-910-2310, or Nicole Ellington (for eastern areas of the state) at 919-719-9267.*

# Council Rejects Proposed Ethics Opinion on Accessing Social Network Presence of Represented or Unrepresented Persons

## Council Actions

At its meeting on October 25, 2018, the Ethics Committee voted to send Proposed 2018 Formal Ethics Opinion 5, Accessing Social Network Presence of Represented or Unrepresented Persons, to the State Bar Council for adoption. However, at its meeting on October 26, 2018, the council voted not to adopt Proposed 2018 Formal Ethics Opinion 5. The inquiry will be reconsidered by the Ethics Committee at its next regularly scheduled meeting in January 2019. Additionally, at its October 26 meeting, the State Bar Council adopted the ethics opinion summarized below:

### 2018 Formal Ethics Opinion 7

#### *Online Review Solicitation Service*

Opinion explains that, subject to certain conditions, a lawyer may participate in an online service for soliciting client reviews that collects and posts positive reviews to

increase the lawyer's ranking on internet search engines.

## Ethics Committee Actions

At its meeting on October 25, 2018, the Ethics Committee sent Proposed 2018 Formal Ethics Opinion 8, Advertising Membership in Marketing Company with Misleading Title, back to subcommittee for further study based upon comments received about the proposed opinion during the prior quarter. The committee also received reports from two subcommittees created to study inquiries concerning *ex parte* communications and concerning Bitcoin and other cryptocurrency. Lastly, the committee received three new inquiries: one concerning ERISA plans, one concerning a lawyer's ability to act as an intermediary between amicable but opposing parties in a domestic dispute, and

## Public Information

The Ethics Committee's meetings are public, and materials submitted for consideration are generally NOT held in confidence. Persons submitting requests for advice are cautioned that inquiries should not disclose client confidences or sensitive information that is not necessary to the resolution of the ethical questions presented.

one concerning intimate relationships between opposing counsel. All three inquiries were sent to subcommittee for further study. ■

## Pathways to Wellbeing (cont.)

my team?" Not every school of fish is ready to change the water in the tank all at once—some may do better filtering in new ideas a little bit at a time. If that is the case, you may try handing this or another mindfulness article out to your team and having a discussion about it. On the other hand, if your firm is ready to take up the mindfulness mantle, get ready to swim in a whole new ocean of productivity and possibility.

\*\*\*\*\*

If you would like to connect with other lawyers who are interested in lawyer wellbeing and learn how to raise your resilience to stress

using mindfulness, join Laura for these upcoming offerings:

12/14/18: "Cultivating Collegiality with Mindful Connections," NCBA Promoting Civility and Sanity in Your Practice, Cary (co-sponsored by NCLAP, [gateway.ncbar.org/store/seminar/seminar.php?seminar=130890](http://gateway.ncbar.org/store/seminar/seminar.php?seminar=130890))

12/14/18: "Mindfulness and Neuroscience for Building Resilience to Stress," McDowell Co. Judicial District CLE, Marion (co-sponsored by NCLAP)

1/10; 1/17; 1/24; 1/31: "Mindfulness for Lawyers: Building Resilience to Stress Using Mindfulness, Meditation, and Neuroscience" (four week online CLE course, [consciouslegalminds.com/register](http://consciouslegalminds.com/register)) ■

©2018. Published in Law Practice Today,

August 2018, by the American Bar Association. Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association or the copyright holder.

Laura Mahr is a NC lawyer and the founder of Conscious Legal Minds LLC, providing mindfulness-based coaching, training, and consulting for attorneys and law offices nationwide. Her work is informed by 11 years of practice as a civil sexual assault attorney and 25 years as a student and teacher of mindfulness and yoga, and a love of neuroscience. Find out more about Laura's work at [consciouslegalminds.com](http://consciouslegalminds.com).

# Amendments Approved by the Supreme Court

At a conference on September 20, 2018, the North Carolina Supreme Court approved the following amendments to the rules of the North Carolina State Bar:

## Amendments to the Rules on Election, Succession, and Duties of Officers

27 N.C.A.C. 1A, Section .0400, Organization of the North Carolina State Bar

Replacing a less comprehensive rule, a new rule specifies what occurs when any of the State Bar's officers become temporarily unable to perform the duties of office.

## Amendments to the State Bar Council's Rulemaking Procedures

27 N.C.A.C. 1A, Section .1400, Rulemaking Procedures

Amendments to Rule .1401 allow proposed amendments to be published for comment in a digital version of the *Journal*, the State Bar's official publication. Amendments to Rule .1403 specify when a proposed rule amendment or proposed rule takes effect.

## Amendments to the Requirements for Reinstatement from Inactive Status and Administrative Suspension

27 N.C.A.C. 1D, Section .0900, Procedures for Administrative Committee

The amendments require a lawyer petitioning for reinstatement to complete the mandatory CLE hours for the year in which the lawyer went inactive or was administratively suspended if inactive or suspended status was ordered on or after July 1.

## Amendments to the Annual CLE Requirements

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program; and Section .1600, Regulations Governing the Administration of the Continuing Legal Education Program

The amendments provide a definition of

"technology training" and mandate that one of the 12 hours of approved CLE required annually must be devoted to technology training.

## Amendments to the Rules Governing the Administration of the Continuing Legal Education Program

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program

Amendments to Rule .1522 specify that members may file their annual report forms online and, in lieu of mailing the forms, allow the State Bar to email a notice to members advising them that forms are posted to the members' online records.

## Amendments to the Certification Standards for the Elder Law Specialty

27 N.C.A.C. 1D, Section .2900, Certification Standards for the Elder Law Specialty

The amendments clarify what constitutes elder law CLE for the purpose of satisfying the CLE standards for certification and for continued certification.

## Amendments to Rules for the Paralegal Certification Program

27 N.C.A.C. 1G, Section .0100, The Plan for Certification of Paralegals

Amendments to The Plan for Certification of Paralegals allow an additional one-year term for service as the chair of the certification committee and establish a vice-chair position for the committee. Other amendments eliminate the rights of an applicant to review a failed examination and to request a review by the board of a failed examination.

## Amendments to the Rules Governing the Admission to the Practice of Law in North Carolina

NC Board of Law Examiners, Section .0500, Requirements for Applicants; Section

## Highlights

- NC Supreme Court approves rule amendments mandating that one of the 12 hours of approved CLE required annually must be devoted to technology training.
- Supreme Court also approves emergency rule amendment to allow lawyers licensed in another state to provide *pro bono* services to victims of Hurricane Florence for a temporary period.
- No new rule amendments proposed this quarter.

.0600, Moral Character and General Fitness; and Section .1200, Board Hearings

Amendments to the rules of the Board of Law Examiners provide a time period within which a general applicant is required to successfully complete the state-specific component of the Uniform Bar Examination and require transfer applicants as well as general applicants to appear before bar candidate committees.

## Preorder the 2019 Lawyer's Handbook



You can order a hard copy by submitting an order form (found on the State Bar's website at [bit.ly/2SGJaGU](http://bit.ly/2SGJaGU)) by March 22, 2019. The digital version will still be available for download and is free of charge.



---

# Emergency Rule Amendment Approved by the Supreme Court

27 N.C.A.C. Chapter 1D, Section .0900, Procedures for Administrative Committee

At a conference on October 2, 2018, the North Carolina Supreme Court approved an amendment to Rule .0905 in 27 N.C. Admin. Code Chapter 1D. This rule permits a lawyer who is licensed in another state to provide *pro bono* representation to indigent persons under the supervision of a North Carolina lawyer employed by a nonprofit corporation qualified to render legal services pursuant to N.C. Gen. Stat. §84-5.1. Under the existing rule, the lawyer's petition to act in this capacity is approved by the State Bar Council at a quarterly meeting of the council. The next quarterly meeting of the council was not scheduled until more than a month after Hurricane Florence's devastation of many North Carolina counties. In light of the dire need for lawyers to assist with legal problems arising from the hurricane, the State Bar submitted an emergency petition to the Supreme Court asking the Court to approve an amendment to Rule .0905 to permit lawyers licensed in other states, but not in North Carolina, to temporarily register with the State Bar and begin immediately providing *pro bono* legal services to indigent residents of North Carolina who are victims of Hurricane Florence. Due to the need for haste, the proposed rule amendment was not published for comment prior to adoption. Permission to practice law in North Carolina under registration procedure authorized by the rule amendment terminates on January 16, 2019.

## Rule .0905 Pro Bono Practice by Out of State Lawyers

(a) A lawyer licensed to practice in an-

other state but not North Carolina who desires to provide legal services free of charge to indigent persons may file a petition with the secretary addressed to the council setting forth:

(1) The petitioner's name and address;  
...

(h) Emergency Rule Permitting Temporary Pro Bono Practice by Lawyers not Licensed in North Carolina. A lawyer licensed to practice in another state but not in North Carolina who desires to provide legal services free of charge to indigent victims of Hurricane Florence under the supervision of a member employed by a nonprofit corporation qualified to render legal services pursuant to G.S. 84-5.1 may do so notwithstanding paragraphs (a) through (g) of this rule under the following conditions:

(1) The lawyer's practice of law in North Carolina under Rule .0905(h) is limited to pro bono assistance of indigent victims of Hurricane Florence and must be rendered under the supervision of a member employed by a nonprofit corporation qualified to render legal services pursuant to G.S. 84-5.1.

(2) The lawyer must file with the North Carolina State Bar the Registration for Temporary Pro Bono Practice of North Carolina Law form containing:

- (i) the lawyer's mailing address, telephone number, and email address;
- (ii) identification of all jurisdictions in which the lawyer is licensed to practice law, dates of licensure and license number(s);
- (iii) a statement that the lawyer is in

good standing with the entity that governs the practice of law in each jurisdiction where the lawyer is licensed to practice law;

(iv) a statement that the lawyer's license to practice law has not been revoked or suspended in any jurisdiction in which the lawyer has ever been licensed to practice law;

(v) a statement that the lawyer agrees to abide by the North Carolina Rules of Professional Conduct and submits to the disciplinary jurisdiction of the courts of North Carolina and of the North Carolina State Bar in regard to any acts or omissions of the lawyer related to the practice of law in North Carolina;

(vi) a statement that the lawyer will only engage in the limited pro bono practice of law authorized by this emergency rule; and

(vii) a certification that all information contained on the form is true and complete.

(3) Permission to practice law in North Carolina under Rule .0905(h) terminates on January 16, 2019. A lawyer practicing law under Rule .0905(h) who desires to continue to provide pro bono services after January 16, 2019 must submit a petition to the State Bar Council pursuant to paragraphs (a) through (g) of this rule on or before January 4, 2019 in order for the petition to be considered by the Administrative Committee of the State Bar at the January meeting of the State Bar Council.

---

## Amendments Pending Approval by the Supreme Court

At its meeting on October 26, 2018, the council of the North Carolina State Bar voted to adopt the following rule amendments for

transmission to the North Carolina Supreme Court for approval. (For the complete text of the proposed rule amendments, see the

Fall 2018 edition of the *Journal* or visit the State Bar website: [www.ncbar.gov](http://www.ncbar.gov).)

## Proposed Amendments to the Rules on Discipline and Disability of Attorneys

27 N.C.A.C. 1B, Section .0100, Discipline and Disability of Attorneys

Proposed amendments to Rule .0113 establish a procedure for imposition of censures that is consistent with the procedures for imposition of reprimands and admonitions. Proposed new Rule .0135 establishes a procedure to suspend the license of a licensee who is not in compliance with de-

mands of the Grievance Committee for information or evidence relating to a grievance investigation.

## Proposed Amendments to the Minimum Standards for Continued Certification of Specialists and to the Recertification Standards for All Specialties

27 N.C.A.C. 1D, Section .1700, The Plan for Legal Specialization; Section .2100, Certification Standards for the Real Property

Law Specialty; Section .2200, Certification Standards for the Bankruptcy Law Specialty; Section .2300, Certification Standards for the Estate Planning and Probate Law Specialty; Section .2400, Certification Standards for the Family Law Specialty; Section .2500, Certification Standards for the Criminal Law Specialty; Section .2600, Certification Standards for the Immigration Law Specialty; Section .2700, Certification Standards for the Workers' Compensation Law Specialty; Section .2800, Certification Standards for the Social Security Disability Law Specialty; Section .2900, Certification Standards for the Elder Law Specialty; Section .3000, Certification Standards for the Appellate Practice Specialty; Section .3100, Certification Standards for the Trademark Law Specialty; Section .3200, Certification Standards for the Utilities Law Specialty; and Section .3300, Certification Standards for the Privacy and Information Security Law Specialty

The proposed amendments reduce the number of peer references required for recertification as a specialist from ten to six for all specialties.

## Proposed Amendments to the Rules of Professional Conduct

27 NCAC 2, Rule 1.15, Safekeeping Property; Rule 3.5, Impartiality and Decorum of the Tribunal; and Rule 5.4, Professional Independence of Lawyer

The proposed amendments to the official comment to Rule 1.15 explain the due diligence required if a lawyer uses an intermediary (such as a bank, credit card processor, or litigation funding entity) to collect a fee. The proposed amendments to Rule 3.5 correct a typographical error included in an amendment to the Rules of Professional Conduct approved by the North Carolina Supreme Court on April 5, 2018. They also revise the official comment to specify that gifts or loans to judges are only prohibited if made under circumstances that might give the appearance that the gift or loan was made to influence official action. The proposed amendments to Rule 5.4 add an exception to the prohibition on fee sharing with a nonlawyer which would allow a lawyer to pay a portion of a legal fee to certain third parties if the amount paid is for administrative or marketing services and there is no interference with the lawyer's independent professional judgment. ■

## In Memoriam

Thomas Johnson Ashcraft  
Charlotte, NC

Martin Douglass Bellis  
Washington, DC

Freda Bowman Black  
Durham, NC

John MacLachlan Boxley  
Raleigh, NC

Joseph Edmiston Bruner  
Randleman, NC

Frederick A. Burke  
Raleigh, NC

Stephen Gray Calaway  
Winston-Salem, NC

Deborah Alice Casey  
Boone, NC

Leroy R. Castle  
Durham, NC

James Joseph Coman  
Raleigh, NC

Stacy Clyde Eggers Jr.  
Boone, NC

William Harrell Everett Jr.  
Goldsboro, NC

James E. Floors  
Smithfield, NC

Joseph Duane Gilliam  
Fayetteville, NC

James Taylor Hedrick  
Durham, NC

Scarlett VanStory Levinson  
Raleigh, NC

William Frank Maready  
Winston-Salem, NC

Rhonda Register Moorefield  
Asheville, NC

John August Mraz  
Asheville, NC

Frederick Clay Ernest Murray  
Reidsville, NC

Charles Johnson Nooe  
Eden, NC

Laura S. Pocock  
Rutherfordton, NC

William Edward Poe Jr.  
Charlotte, NC

Diane Martin Pomper  
Raleigh, NC

Michael B. Pross  
Salisbury, NC

Larry Truman Reida  
Waynesville, NC

Richard Von Biberstein Jr.  
Burgaw, NC

Christopher Allen White  
Charlotte, NC

Samuel Cramer Whitt Jr.  
Houston, TX

James Thomas Williams Jr.  
Greensboro, NC

Albert Lee Willis  
Durham, NC

Robert A. Yancey  
Marion, NC

## State Bar Swears In New Officers



Wilson



Willoughby



Christy



Mine

### Wilson Installed as President

Winston-Salem attorney G. Gray Wilson has been sworn in as president of the North Carolina State Bar. He was sworn in by North Carolina Supreme Court Chief Justice Mark Martin at the State Bar's Annual Dinner on Thursday, October 25, 2018.

Wilson is a cum laude graduate of Davidson College, and earned his law degree from Duke University School of Law. He was admitted to the practice of law in North Carolina in 1976. He is currently a partner with the Winston-Salem office Nelson Mullins Riley & Scarborough.

Wilson's professional activities include being a fellow in the American College of Trial Lawyers. He also served the North Carolina Bar Association on its Board of Governors, and was president from 2004-2005. Since 2006 he has served on the Board of Directors of Lawyers Mutual Liability Insurance Company, and has been chair of the board since 2015.

Wilson was a North Carolina State Bar councilor from 2007-2015, during which time he was vice-chair of the Grievance Committee, and chair of the Board of Paralegal Certification and Publications Committee.

In addition to his numerous professional activities, Wilson is also involved with his community, serving his church as a deacon, and working with the Old Hickory Council of the Boy Scouts of America.

### Willoughby Sworn In as President-Elect

Raleigh attorney C. Colon Willoughby has been sworn in as president-elect of the North Carolina State Bar. He was sworn in by North Carolina Supreme Court Chief Justice Mark Martin at the State Bar's Annual Dinner on Thursday, October 25, 2018.

Willoughby earned an undergraduate degree in business administration from the University of North Carolina at Chapel Hill, and an MBA from East Carolina University. In 1979 he graduated from Campbell University's Norman Adrian Wiggins School of Law.

Willoughby is a partner with the Raleigh firm McGuireWoods, where he focuses his practice on government, regulation, and criminal investigations. Prior to joining McGuireWoods, he worked as a mortgage banker, as a member of the faculty at Peace College, as a private practitioner, and served as the elected district attorney in Wake County for 27 years.

His other professional activities have included serving as president of the Wake County Academy of Trial Lawyers, director of the Wake County Bar Association, president of North Carolina Conference of District Attorneys, and a member of the Board of Directors of the National District Attorney's Association.

Willoughby served as a State Bar councilor from 1998-2006, and was elected again in 2014. During his time as a councilor he has served as chair of the

Authorized Practice Committee, and as vice-chair of the Grievance Committee.

Willoughby has been extensively involved in the community. He has served on the Board of Governors of Summit House, Inc., as director of Artspace, Inc., as a member of the Raleigh Rotary Club, on the Triangle YMCA Board of Directors, and on the Board of Directors for NCLEAF. He also is an active member of White Memorial Presbyterian Church, where he serves as an Elder.

### Christy Sworn In as Vice-President

Greensboro attorney Barbara R. Christy has been sworn in as vice-president of the North Carolina State Bar. She was sworn in by North Carolina Supreme Court Chief Justice Mark Martin at the State Bar's Annual Dinner on Thursday, October 25, 2018.

Christy earned her BS magna cum laude from Appalachian State University, and her JD from the University of North Carolina School of Law.

A member of Schell Bray, her practice focuses on commercial real estate transactions.

Christy's professional activities include volunteering with Legal Aid of North Carolina's Lawyer on the Line initiative. She is also a North Carolina State Bar board certified specialist in real property law—business, commercial, and industrial transactions, a fellow with the American College of Real Estate Lawyers, and a member of the Piedmont Triad Commercial Real Estate Women. Additionally, Christy is involved with her community, serving on the Board of Directors for Southern Alamance Family Empowerment, Inc., and is a past member of the UNC Law Foundation, Inc. Board of Directors.

As a Bar councilor, Christy has served as vice-chair of the Authorized Practice

CONTINUED ON PAGE 43



## Fifty-Year Lawyers Honored

As is traditional, members of the North Carolina State Bar who are celebrating the 50th anniversary of their admission to practice were honored during the State Bar's Annual Meeting at the 50-Year Lawyers Luncheon. One of the honorees, Larry S. McDevitt, addressed the attendees, and each honoree was presented a certificate by the president of the State Bar, John Silverstein, in recognition of his or her service. After the ceremonies were concluded, the honorees in attendance sat for the photograph below. ■



*First row (left to right):* John E. Gehring, David Grier Martin Jr., Milton Bays Shoaf Jr., William S. Hoyle, Mahlon W. Deloatch Jr., Edwin W. Welch, Wesley D. Corle, Robert J. Bernhardt, Gerald H. Davidson Jr., Meyressa Hughes Schoonmaker, Richard S. Towers, James L. Graham, F. Nelson Blount-Crisp, Burnace M. Hancock Jr., Robert D. Douglas III, Richard L. Voorhees, Howard E. Manning Jr. *Second row (left to right):* Marvin E. Taylor Jr., J. Thomas Dunn Jr., Stephen E. Culbreth, W. Hugh Thompson, William P. Pope, Robert G. Ray, James N. Duggins Jr., Algernon L. Butler Jr., John N. Fountain, George M. Cleland III, Steve C. Horowitz, Richard E. Jonas, Ronald Vance Shearin, Pender R. McElroy, Eugene Woods Purdom, James H. Kelly Jr. *Third row (left to right):* Douglas R. Gill, O. Tracy Parks III, David B. Sentelle, George V. Hanna III, Robert Phillips Gruber, W. Louis Bissette Jr., Charles R. Young Sr., William P. Harris, Kenneth Allen Moser, H. Dockery Teele Jr., William E. Clark, Thomas E. Archie, Larry S. McDevitt, Samuel G. Thompson

### New Officers (cont.)

Committee, Grievance Committee, and Legislative Committee, and as chair of the Ethics Committee.

Christy and her family live on a small farm in the Snow Camp community where they raise beef cattle, honey bees, and fruit trees. She is a member of Saxapahaw United Methodist Church where she has been the long-time church pianist.

### Mine Sworn In as Secretary/Treasurer

Alice Neece Mine, long-time assistant

executive director of the North Carolina State Bar, has been installed as the agency's secretary/treasurer, succeeding L. Thomas Lunsford, II, who had held the post since 1992. Ms. Mine was sworn in by North Carolina Supreme Court Justice Mark Martin at the State Bar's Annual Dinner on Thursday, October 25, 2018.

Ms. Mine is a summa cum laude graduate of North Carolina State University. She earned her law degree from the University of North Carolina at Chapel Hill and was admitted to practice in 1985.

After eight years of private practice in Durham, she accepted a position as the State

Bar's assistant executive director in 1993. Since that time, she has served as senior ethics counsel and as director of the Boards of Legal Specialization, Continuing Legal Education, and Paralegal Certification.

A nationally recognized expert on the subject of professional ethics, Ms. Mine also taught professional responsibility as an adjunct professor at the Duke University Law School for many years, and served on the American Bar Association's Standing Committees on Legal Specialization and Professional Discipline. She also served on the Board of Directors of the UNC School of Law's Alumni Association. ■

## Resolution of Appreciation for John M. Silverstein

WHEREAS, John M. Silverstein was elected by his fellow lawyers from Judicial District 10 in 2007 to serve as their representative in this body. Thereafter, he was elected for three successive three-year terms as councilor; and

WHEREAS, in October 2015, Mr. Silverstein was elected vice-president, and in October 2016, he was elected president-elect. On October 26, 2017, he was sworn in as president of the North Carolina State Bar; and

WHEREAS, during his service to the North Carolina State Bar, Mr. Silverstein has served on the following committees: *Ad Hoc* Trust Accounting; Administrative; Appointments; Attorney/Client Assistance; Authorized Practice; Executive; Facilities; Finance and Audit; Grievance; Issues; Issues Outreach Subcommittee; Issues Special Committee to Review AP Advisory Opinion 2002-1; Legislative; Program Evaluation; Program Evaluation Trust Account Subcommittee; and Special Committee to Study Ethics 20/20 Resolution; and

WHEREAS, having pledged to continue the important work of his predecessor in regard to the State Bar's engagement with the legal community and the general public, President Silverstein never declined an opportunity to personally explain and promote the important work of the State Bar and the effectiveness of self-regulation. He was, in this undertaking, tireless and ubiquitous, appearing throughout the state and throughout the year in person, in print, in PowerPoint, and in podcast, never failing to enlighten and inspire; and

WHEREAS, President Silverstein's energy and attention were inwardly directed as well. Recognizing that ten years had elapsed since the last comprehensive evaluation of the State Bar's disciplinary program had been undertaken, he commissioned a special committee to review the organization and performance of this most important of the State Bar's regulatory endeavors. The painstaking review confirmed the disciplinary program's effectiveness and efficiency while suggesting a few modest changes to rules, policies, and procedures to enhance the fairness and credibility of the undertaking; and

WHEREAS, during his year as president, Mr. Silverstein initiated several other special projects that individually and collectively strengthened and invigorated the State Bar's regulatory program. In particular, President Silverstein commissioned special committees to review the American Bar Association's new Model Rules on Advertising, as well as the State Bar's own rules concerning the practical training of law students and the operation of the attorney/client assistance program. All of these initiatives were calculated to validate the premise that self-regulation is credible and justifiable only when leavened by critical introspection; and

WHEREAS, President Silverstein has with a sure and steady hand guided the State Bar through a transition in administrative leadership, the likes of which the agency had not experienced in a generation. By facilitating Alice Mine's succession of Tom Lunsford as executive director, Mr. Silverstein ensured that the policies of the council will continue to be executed with competence, fidelity, and imagination, and perpetuated an administrative culture that is stable and humane; and

WHEREAS, John Silverstein, by virtue of his own surpassing humanity and grace, has personified the North Carolina State Bar. In so doing, he has elevated our spirits and our sense of purpose. All of us, and the agency he served, are better for having been led by John Silverstein.

NOW, THEREFORE, BE IT RESOLVED that the council of the North Carolina State Bar does hereby publicly and with deep appreciation acknowledge the strong, effective, and unselfish leadership of John M. Silverstein, and expresses to him its debt for his personal service and dedication to the principles of integrity, trust, honesty, and fidelity.

BE IT FURTHER RESOLVED that a copy of this resolution be made a part of the minutes of the Annual Meeting of the North Carolina State Bar and that a copy be delivered to John M. Silverstein.

# Client Security Fund Reimburses Victims

At its October 25, 2018, meeting, the North Carolina State Bar Client Security Fund Board of Trustees approved payments of \$13,479 to eight applicants who suffered financial losses due to the misconduct of North Carolina lawyers. As set out below, another \$58,440 was paid to 58 additional applicants between the July and October meetings for a total of \$71,919 paid this quarter.

The payments authorized were:

1. An award of \$600 to a former client of Robert A. Bell of Fayetteville. The board determined that Bell was retained to handle a client's custody matter regarding his step-grandson. Bell failed to provide any meaningful legal services for the fee paid. Bell was transferred to disability inactive status on April 10, 2015. The board previously reimbursed six other Bell clients a total of \$12,375.

2. An award of \$1,000 to a former client of Charles R. Gurley of Goldsboro. The board determined that Gurley was retained to represent a client on DWI charges. Gurley failed to provide any meaningful legal services for the client for the fee paid prior to being jailed, and then suspended from the practice of law, by a superior court judge due to his failing to provide the State Bar with records of his handling of clients' funds. Gurley was enjoined from practicing law on November 22, 2017. The board previously reimbursed nine other Gurley clients a total of \$4,375.

3. An award of \$200 to a former client of Charles Gurley. The board determined that Gurley was retained to represent a client on a DWLR charge. Gurley failed to provide the client with any meaningful legal services for the fee paid prior to his suspension.

4. An award of \$524 to a former client of Charles Gurley. The board determined that Gurley was retained to represent a client on criminal charges. Gurley failed to provide the client with any meaningful legal services for the fee paid prior to his suspension.

5. An award of \$5,700 to a former client

of Kenneth Holmes of Statesville. The board determined that Holmes was retained by a client to handle his accident claim. Holmes settled the matter and received the settlement. Holmes retained some of the settlement funds to pay a Medicaid lien; however, he never paid any funds to Medicaid. Due to misappropriation, Holmes' trust account balance is insufficient to pay all client obligations. This award will be subject to the Medicaid lien.

6. An award of \$455 to a former client of Christi Misocky of Fort Mill, South Carolina. The board determined that Misocky handled a client's real estate closing. Misocky was supposed to purchase a home warranty for the client from the closing proceeds. Misocky never paid the premium. Due to misappropriation, Misocky's trust account balance is insufficient to pay all client obligations.

7. An award of \$5,000 to former clients of Christi Misocky. The board determined that Misocky was retained by a couple to handle the adoption of their niece. Upon receipt of the entire fee from the couple, Misocky closed her office and cut off all communication with the couple and the clerk's office. Misocky failed to provide the clients with any meaningful legal services for the fee paid.

## Reconsideration of a Denied Christopher Greene Claim

At its July meeting the board considered a \$680 claim made by a former client of Christopher Greene of Charlotte, who had retained Greene to obtain a work permit for the client. Greene provided no meaningful legal services to the client for the fee paid. The claim was denied due to the client's failure to provide proof of payment of the fee to Greene. The claim was reconsidered online shortly after the July meeting after the trustee of Greene's practice provided the receipt. Greene was disbarred on February 11, 2017. The board previously reimbursed 12 other Greene clients a total of \$32,625.

## Additional Charles R. Gurley Claims

At the July meeting, the board considered ten of the 78 claims then pending against Charles R. Gurley from Goldsboro. The board established criteria for its counsel to use in evaluating the remaining claims and authorized counsel to pay, with the chair's approval, all claims that met the board's criteria for payment. Pursuant to the board's criteria and authorization, counsel paid 57 additional Charles R. Gurley claims totaling \$57,760 between the July and October meetings. ■

## Speakers Bureau Available

Speakers on topics relative to the North Carolina State Bar's regulatory mission are available at no charge for presentations in North Carolina to lawyers and to members of the public. Topics include the State Bar's role in the regulation of the legal profession; the State Bar's disciplinary process; how the State Bar provides ethical guidance to lawyers; the Lawyer Assistance Program of the State Bar; the Client Security Fund; IOLTA: Advancing Justice for more than 20 Years; LegalZoom, and updating concepts of the practice of law; and anti-trust questions for the regulation of the practice of law in North Carolina. Requests for speakers on other relevant topics are welcomed. For more information, call or email Lanice Heidbrink at 919-828-4630 or [lheidbrink@ncbar.gov](mailto:lheidbrink@ncbar.gov).



## Law School Briefs

### Campbell University School of Law

*Campbell Law welcomes second-largest class*—The 188 first-year law students entering the 2018 academic year at Campbell Law School represent a significant milestone—the 10th new class of 1L students since the school moved from Buies Creek to its Raleigh campus just steps from the Capitol. In addition to being the school's second-largest, the Class of 2021 comes from 64 undergraduate institutions with 45 majors and includes eight Campbell FLEX students, two transfers, and one Patent Certificate student.

*Campbell Law students partner with Neota Logic on criminal records expunction app*—Campbell Law students partnered with Neota Logic to develop an app specifically for the Blanchard Community Law Clinic to aid in the recent increase in criminal record expunction requests—more evidence the law school is blazing trails in legal technology. In December 2017 North Carolina implemented drastic changes in its expunction law, to include reducing the misdemeanor convictions wait period; the felony convictions wait period; and eliminating a limit on the number of dismissals that can be expunged. This change has resulted in a significant increase in the number of residents seeking help through the clinic and other providers, explained Ashley Campbell, director of the law school's Blanchard Community Law Clinic. The new application is the brainchild of Adjunct Professor Tom Brooke '80, who teaches "Coding for Lawyers" and saw the opportunity to marry technology and this growing legal need with the help of some creative law students. Brooke and his students used Neota Logic, a software development tool set for automating expertise, to create the app, the first version of which was used on October 13 when expunction clinics were held throughout the state.

### Duke Law School

Femi Cadmus, a leader in the field of law librarianship and legal information access,

joins the Duke Law faculty in November as the Archibald C. and Frances Fulk Rufty research professor of law, associate dean of information services and technology, and director of the J. Michael Goodson Law Library at Duke Law School. She comes to Duke from Cornell Law School, where she was the Edward Cornell law librarian, associate dean for library services, and professor of the practice. She previously served in various roles in the law libraries at Yale Law School, George Mason University School of Law, and the University of Oklahoma School of Law. She currently serves as president of the American Association of Law Libraries, and in July she was named to the "Fastcase 50" list of entrepreneurs and innovators in law and legal technology for her efforts to promote open access to legal scholarship and information.

In *The Positive Second Amendment: Rights, Regulation, and the Future of Heller* (Cambridge University Press, 2018), Professors Joseph Blocher and Darrell Miller offer the first comprehensive account of the history, theory, and law of the right to keep and bear arms in the aftermath of *District of Columbia v. Heller*.

With *The Death Penalty: Concepts and Insights* (Foundation Press, 2018), Professor Brandon Garrett and co-author Lee Kovarsky offer readers an overview of the law and practice of the death penalty in the United States, as well as the fierce social and political debate around it.

In *When Lawyers Screw Up: Improving Access to Justice for Legal Malpractice Victims* (University Press of Kansas, 2018) Professor Neil Vidmar and co-author Herbert Kritzer report on their comprehensive empirical study of lawyers' professional liability. One key finding: Some clients fail to obtain redress for their attorneys' mistakes or negligence, even when they have suffered significant harm.

### Elon University School of Law

*Elon Law hosts US Court of Appeals for the Fourth Circuit*—Elon University School

of Law marked an institutional milestone in October when, for the first time since the school opened in 2006, the US Court of Appeals for the Fourth Circuit heard oral arguments inside Elon Law's Robert E. Long Courtroom. The three judges who will rule on the cases also used their visit as an opportunity to share with Elon Law students their reflections on what the judiciary and the service attorneys provide in faithfully representing clients. The Hon. Roger L. Gregory, the Hon. Diana Gribbon Motz, and the Hon. Albert Diaz and their law clerks later gathered for a private lunch with select students who have expressed interest in judicial clerkships following graduation.

*NC attorney general to deliver Elon Law Commencement address*—North Carolina Attorney General Josh Stein will deliver Elon Law's commencement address for the second class to graduate from an innovative 2.5-year legal education program that emphasizes experiential learning and practical training. Commencement takes place Saturday, December 15, at 11 AM inside Elon University's Alumni Gym.

*Elon Law alumna named law school's assistant dean for development*—Barbara Cini has been named Elon Law's assistant dean for development following a national search. In her new role at the law school, Cini—a 2011 graduate of Elon Law—will develop and execute a comprehensive development program that includes major gifts, corporation and foundation relations, donor relations, and alumni engagement. Cini will work with Elon University and Elon Law leaders in establishing fundraising priorities, assist in the management of the Elon Law Board of Advisors, manage the Elon Law Alumni Council, and oversee annual giving, directed through the Elon University Office of Annual Giving.

### North Carolina Central School of Law

The Square One Project, a newly launched three-year initiative to rethink justice policies hosted the Reimagine Justice

Roundtable at North Carolina Central University School of Law October 11-13. The Future of Justice Policy panel examined the history of racial and economic inequality, and implications for justice policy and practice. The event was co-hosted by the North Carolina Central University Juvenile Justice Institute, NCCU School of Law Virtual Justice Project, and the Justice Lab at Columbia University.

The opening panel was led by Jeremy Travis, who is the co-founder of Square One Project; the executive vice president of criminal justice, Laura and John Arnold Foundation; and president emeritus, John Jay College of Criminal Justice. The panel's topic was: The Racial History of Criminal Justice in America. The panelist included Heather Ann Thompson, author; and Cedric J. Robinson, professor of History and African American Studies, University of Michigan. An evening reception was held at Durham's Beyù Café where an award was presented to Cameron R. Wiley, winner of the Square One Student Paper Competition.

The roundtable closed with a discussion led by Bruce Western, co-founder, Square One Project; co-director, Justice Lab; and professor of Sociology, Columbia University.

North Carolina Central University School of Law collected 98 books to donate to the North Carolina Bar Foundation's Lawyers for Literacy program's 2018 summer book drive. Senior Director Kim Bart Mulkin praised the law school's efforts: "Thank you to NCCU Law School and everyone who participated in the book drive. The books that you donated will be shared with elementary school students across the state who benefit from the Lawyers for Literacy reading program."

Professor Irving Joyner was a guest panelist on WRAL's "On the Record" on September 1. He discussed the six proposed amendments to the NC Constitution which were voted on in the November 2018 elections.

## University of North Carolina School of Law

*Carolina Law ranks No. 1 among North Carolina law schools for first time bar takers*—Eighty-six percent of the 106 Carolina Law graduates who took the North Carolina bar exam for the first time in July 2018 passed. Carolina Law's passage rate

exceeded the overall state passage rate of 72.5% for first time test takers by over 14%. The law school's Research, Reasoning, Writing, and Advocacy (RRWA) program, now in its eighth year, ranks number 12 in legal writing by *US News & World Report's* 2019 edition of "America's Best Graduate Schools."

*Earn CLE credit at festival and more*—Upcoming CLE programs in Chapel Hill include the Festival of Legal Learning, February 8-9; The ABCs of Banking Law, March 20; the Banking Institute, March 21-22. Visit [law.unc.edu/cle](http://law.unc.edu/cle).

*Health law student group receives grant to increase low-income access to medical resources*—The North Carolina Society of Health Care Attorneys awarded the Carolina Health Law Organization a \$1,500 grant to create a resource for low-income individuals seeking *pro bono* and reduced-fee legal and consumer services related to health care.

*Carolina Law welcomes new faculty members*—Leigh Osofsky teaches Income Taxation, Partnership Tax, and Tax Law Research & Writing; Elizabeth Sherowski teaches Research, Reasoning, Writing, and Advocacy I and II; Sheldon Holliday Welton teaches Energy Law: Resources & Electricity and Environmental Law; and John Wesley Brooker '03 is director of the Veterans Legal Assistance Project in the clinical program.

*Professor Eric L. Muller receives Professor Keith Aoki Asian Pacific American Jurisprudence Award*—The award, established by the Conference of Asian Pacific American Law Faculty (CAPALF), is made annually to an individual who has written or advocated on behalf of Asian Pacific American rights, or explored Asian Pacific American identity, history, or rights through law, art, music, or in other forms.

## Wake Forest School of Law

*Trial teams ranked No. 1 for their collective team performances since 2016*—Wake Forest Law also placed among the top three law schools in the country for its 2017-2018 trial team competition performances. The Wake Forest National Trial Team won their first-ever National Trial Team Championship in 2018, making Wake Forest the only US law school to win the national TYLA competition, the national AAJ Student Trial Advocacy Competition,

and the National Moot Court Competition in consecutive years.

*Faculty jumped 20 spots since 2013 to No. 44 in Brian Leiter's ranking of scholarly impact*—Among Wake Forest Law's top cited tenured faculty, three professors were placed in the top 20 of their areas of specialty, including Mark Hall at No. 2 for Health Law, Ronald Wright at No. 12 for Criminal Law and Procedure, and Sidney Shapiro at No. 17 for Public Law. Top cited tenured faculty include Professors Jonathan Cardi, Michael Curtis, Margaret Taylor, Mike Green, Gregory Parks, John Knox, Alan Palmiter, Kami Chavis, and Margaret Taylor.

*Wake Forest School of Law students place first in multiple writing competitions*—Hailey Cleek (JD/MA Bioethics '19) won the 2018 American Society for Bioethics and Humanities (ASBH) Student Writing Competition for her paper, "The Price of Rights: Centering Class in Contraception Access." Katherine Wenner (JD '19) placed first in the New York State Bar Association Committee on Animals Law Student Writing Competition for her paper, "Pulling Wool Over Our Eyes: How Inconsistent and Misleading Voluntary Animal Welfare Food Labels are Failing Consumers and Animals."

*Professors Ronald Wright, Kami Chavis, and Gregory Parks released "The Jury Sunshine Project"*—The project is a collection of statistics from felony trial jury selection across North Carolina's 100 counties, which is publicly available to journalists and scholars. ■

## Thank You to Our Annual Meeting Sponsors

Lawyers Mutual Liability  
Insurance Company

Nelson Mullins Riley &  
Scarborough, LLP

Engineering Systems,  
Incorporated

# Annual Reports of State Bar Boards

## Board of Continuing Legal Education

*Submitted by Arnita M. Dula, Chair*

Lawyers continue to meet and exceed their mandatory continuing legal education requirements. By mid-March 2018, the CLE department processed and filed over 27,455 annual report forms for the 2017 compliance year. I am pleased to report that 99% of the active members of the North Carolina State Bar complied with the mandatory CLE requirements for 2017. The report forms show that North Carolina lawyers took a total of 375,928 hours of CLE in 2017, or 15 CLE hours on average per active member of the State Bar. This is three hours above the mandated 12 CLE hours per year.

The CLE program operates on a sound financial footing and has done so almost from its inception over 30 years ago. Funds raised from attendee and noncompliance fees not only support the administration of the CLE program, but also support three programs that are fundamental to the administration of justice and the promotion of the professional conduct of lawyers in North Carolina. The program's total 2017 contribution to the operation of the Lawyers Assistance Program (LAP) was \$250,610.26. To date in 2018, the board has also collected and distributed \$298,123 to support the work of the Equal Access to Justice Commission and \$298,362.55 to support the work of the Chief Justice's Commission on Professionalism. In addition, the CLE program generated \$74,529.21 to cover the State Bar's costs for administering the CLE-generated funds for the LAP and the two commissions.

This year the board proposed an amendment to the annual CLE requirements to require that one hour of the 12 mandatory CLE hours per year be devoted to technology education. Technology is rapidly changing and is having an ever-increasing impact on the practice of law. To maintain competence, it is critical that lawyers understand technology. The Supreme Court approved the amendment last month, and the require-

ment will be effective in 2019. North Carolina is one of only two states that now requires technology training.

The board also studied whether to eliminate the six hour on-demand cap on CLE programs. Education is the primary purpose of CLE and lawyers should have more opportunities to satisfy their requirements. It is anticipated that a proposed amendment will be submitted to the council in January 2019.

Earlier this year the Supreme Court approved amendments to the rules governing the CLE program to replace the term "accredited sponsor" with the term "registered sponsor." This change will avoid misleading consumers of CLE as to the extent to which such sponsors are vetted by the board. The amendments also reconcile the requirements for designation as a registered sponsor with current practice.

Regrettably, my and Christina Goshaw Hinkle's terms have come to an end. We will miss serving on the board.

The board wishes to thank Alice Mine for her leadership with the CLE program over the last 25 years. Her knowledge, expertise, and guidance have been invaluable to the board. We wish her only the best as she steps into the role of executive director of the Bar.

The board strives to ensure that the continuing legal education requirements meaningfully advance the competency of North Carolina lawyers. We welcome any recommendations or suggestions that councilors may have in this regard. On behalf of the other members of the board, I thank you for the opportunity to contribute to the protection of the public by overseeing the mandatory continuing legal education program of the State Bar.

## Board of Legal Specialization

*Submitted by Robert A. Mason, Chair*

North Carolina's Legal Specialization program exists for two reasons: First, to assist in the delivery of legal services to the public by identifying lawyers who have demonstrated special knowledge, skill, and proficiency in a

specific field so that the public can more closely match its needs with available services; and second, to improve the competency of the Bar. 27 N.C. Admin. Code 1D.1701. I am proud to report that, under the guidance of the Board of Legal Specialization, and with the tireless efforts of the specialty committees and staff, our program is stronger than ever and continually achieving the very purpose for which the State Bar Council created the program in 1985. On top of that, our program is entirely self-sufficient.

With the addition of 47 new specialists last November, there are now 1,040 certified legal specialists in North Carolina. The State Bar's specialization program certifies lawyers in 13 specialties. This spring we received 118 applications from lawyers seeking certification. Of the 2018 applicants, 106 met the substantial involvement, CLE, and peer review standards for certification and were approved to sit for the specialty exams. This will be one of the largest groups of examinees since the creation of the program.

To assist lawyers interested in becoming certified specialists but who are not yet qualified, this year we successfully created and implemented a new process allowing lawyers to fill out a Declaration of Intent form. This form allows our staff to track, communicate with, and assist interested lawyers regarding the lawyer's eligibility under the applicable certification standards. We also started a law school outreach program that included visits to the law schools and presentation of an informational poster that the law school staff can post in their career services office.

In April 2018 the Board of Legal Specialization held its annual luncheon to honor both long-time and newly-certified specialists at the North Hills Renaissance in Raleigh. At the lunch, the specialists who were certified in November 2017 were recognized and presented with specialization lapel pins. The board also recognized 33 specialists who were originally certified in 1993 and who have maintained their certifications for the past 25 years. Additionally, we had the honor



of presenting the board's three Service and Excellence Awards named in honor of past chairs of the board. The Howard L. Gum Excellence in Committee Service Award was given to Robert C. Kemp III, a criminal law specialist from Greenville, for his dedication, service, and leadership as chair of the Criminal Law Specialty Committee. The James E. Cross Leadership Award was presented to Leonard T. Jernigan Jr., who is a workers' compensation law specialist in Raleigh, for his long history as an esteemed CLE presenter and author, as well as for his widely recognized knowledge and dedication to the field. The Sara H. Davis Excellence Award was presented to Rose M. Stout, a certified specialist in family law from Raleigh, for serving as an exceptional role model for other lawyers and exemplifying excellence in her daily law practice.

I am also happy to report the Jeri L. Whitfield Legal Specialty Certification Scholarship Fund established to provide scholarships for specialization application fees for prosecutors, public defenders, and non-profit public interest lawyers who wish to become certified specialists has been very successful in 2018. The fund is administered by the North Carolina Legal Education Assistance Foundation (NC LEAF). We received several donations during the specialists' luncheon in April, and several specialists made donations when paying their annual specialization fees. The fund balance at the beginning of 2018 was \$655; we have received an additional \$1,385 for the scholarship fund thus far in 2018. All contributions are tax deductible and can be made through NC LEAF. As a result of this scholarship fund, I am pleased to report that seven public interest applicants received scholarships this year, thereby offering these lawyers the opportunity to not only attain certified status, but also instill trust and confidence in the legal services received by the clients they serve.

Our exams continue to be a strong and objective measure of proficiency for the various specialties, and we are ever-striving to improve both the content of the exams and the testing experience. In 2018 we continued to work with Dr. Devdass Sunnassee of UNC-Greensboro. Dr. Sunnassee and his graduate students provided valuable psychometric analysis for each of our specialty exams to ensure they remain valid and reliable. We also continue to utilize ExamSoft and its recently released testing program, Exemplify,

for all of our testing needs. Examsoft is a secure, cloud-based software that is used by many law schools and on most bar exams. The program's significant capabilities help streamline all aspects of the testing process, from writing and storing exam questions to grading and analyzing exams.

Completing the process begun in 2017, we are excited to offer the first privacy and information security law specialty exams in October 2018. Privacy and information security law is an ever-growing field and is increasingly in demand amongst the public. Eight lawyers were appointed to the initial Privacy and Information Law Specialty Committee. These lawyers volunteered their time to establish the standards for certification and draft the exam. The committee is chaired by Matthew Cordell, who has practiced in the field of privacy and information security law since 2007. Matthew and the other specialty committee members bring a wealth of knowledge about this area of law to our program.

Also in this year's specialization news, the State Bar *Journal* featured interviews with the members of the Privacy and Information Security Law Specialty Committee; with Leslie Carter Rawls, an appellate practice specialist practicing in Charlotte; and with Delores Todd, a public member of the specialization board. Regrettably, Ms. Todd rotated off the board this year. We are thankful for the council's addition of our new public member, Patricia Head of Raleigh. Lastly, with the promotion of Alice Mine to executive director of the North Carolina State Bar, we welcomed Brian Oten as the new director for the Board of Legal Specialization in July 2018.

On behalf of the board, I want to express my sincere appreciation to the members of the council for your continuing support of the Legal Specialization program.

### **Board of Paralegal Certification**

*Submitted by Robert C. Bowers, Chair*

North Carolina's Paralegal Certification program exists for two reasons: First, to assist in the delivery of legal services to the public by identifying individuals who are qualified by education and training and have demonstrated knowledge, skill, and proficiency to perform substantive legal work under the direction and supervision of a licensed lawyer; and second, to improve the competency of those individuals. 27 N.C. Admin. Code 1G.0101. I am proud to report that, under the guidance of the Board of Paralegal Certification, and

with the tireless efforts of various volunteers and staff, our program is thriving and continually achieving the very purpose for which the State Bar Council created the program in 2004. Importantly, our program is entirely self-sufficient.

Thirteen years after the first application for paralegal certification was accepted by the board on July 1, 2005, there are today 4,039 North Carolina State Bar certified paralegals. This year, 147 paralegals were eligible for the April 2018 exam; of that number, 107 passed the exam. We recently administered our October 2018 exam, for which 203 paralegals were eligible. We anticipate designating well over 100 new certified paralegals after the results of the October exam are released in November.

Also, in 2018 the board considered 3,489 recertification applications. To maintain certification, a certified paralegal must complete six hours of continuing paralegal education (CPE) credits annually, including one hour of ethics. I am pleased to report that certified paralegals have continued to improve their competency by taking over 20,000 hours of CPE in the last 12 months.

The board held its annual retreat in April at the State Bar building in Raleigh. Among the various agenda items were two important requests submitted by certified paralegals. First, we received a request to create and provide to certified paralegals a laminated membership card, similar to attorney bar cards, to allow certified paralegals to identify themselves as such to courthouse and other governmental officials. Second, in recognition of the sometimes significant distress experienced by paralegals, we received a request to offer mental health services to certified paralegals similar to the Lawyer's Assistance Program (LAP). The board continues to debate these requests, both in terms of logistics and contribution to the legal profession.

Our exams continue to be a strong and objective measure of proficiency for paralegals in this state, and we are ever-striving to improve both the content of the exams and the testing experience. In 2018 we continued to work with Dr. Devdass Sunnassee of UNC-Greensboro. Dr. Sunnassee and his graduate students provided valuable psychometric analysis for our certification exam to ensure our exam remains valid and reliable. We also continue to utilize ExamSoft, a secure, cloud-based software that is used by many law schools and on most bar exams.

The software's significant capabilities help streamline all aspects of the testing process, from writing and storing exam questions to grading and analyzing exams. We are currently speaking with different paralegal schools around the state in an attempt to offer our certification exam at their facilities using ExamSoft. If we succeed in this endeavor, we will be able to offer the certification exam in a number of convenient locations, thereby increasing paralegals' access to our program and the public's access to certified paralegals.

Nine years ago, at the State Bar's October 2009 annual meeting, the board presented a check to then President John McMillan in the amount of \$500,000 as a contribution to the State Bar Foundation for the construction of the new State Bar building. This contribution was possible because paralegals embraced the certification program from its inception, thereby enabling the program to operate "in the black" financially from the beginning. Prudent management of the finances of the

program continues to allow the board, on occasion, to make substantial contributions of funds to important initiatives. This year the board contributed \$5,000 to the North Carolina Paralegal Association for the production of a low-cost continuing paralegal education course.

Regrettably, Shelby D. Benton's term as a member of the board, along with my own, have come to an end. Councilor Matthew W. Smith of Eden and attorney Benita Powell of Fayetteville are recommended to fill the current vacant positions. Warren C. Hodges, our current vice-chair, has agreed to serve as chair if appointed. Bryan G. Scott has agreed to serve as vice-chair if appointed. Lastly, with the promotion of Alice Mine to executive director of the North Carolina State Bar, we welcomed Brian Oten as the new director for the Board of Paralegal Certification in July 2018.

The Board of Paralegal Certification looks forward to continued success certifying quali-

fied paralegals to help with the delivery of legal services to the citizens of North Carolina. We welcome any recommendations or suggestions that councilors may have for ways in which the board might improve the paralegal certification program. On behalf of the other members of the board, thank you for the opportunity to contribute to the protection of the public by overseeing this important program of the North Carolina State Bar.

### Lawyer Assistance Program

*Submitted by Robynn Monaites, Director*

Your NC Lawyer Assistance Program (LAP) and its dedicated volunteers continue to make unprecedented inroads across the state, carrying a message of hope, recovery, and transformation of personal and professional lives.

A riveting *NY Times* feature article about a big firm, Silicon Valley lawyer who died from

CONTINUED ON PAGE 53

---

## John B. McMillan Distinguished Service Award

### Barbara B. Weyher

Barbara B. (Bonnie) Weyher was presented with the John B. McMillan Distinguished Service Award at the Wake County Bar Association's luncheon on October 2, 2018. The award was presented by North Carolina State Bar Vice President Colon Willoughby.

Ms. Weyher is a 1977 honors graduate of the UNC School of Law, where she served as a staff member of the *North Carolina Law Review*. Following law school, Ms. Weyher began her legal career in New York City. In 1979 she returned to North Carolina and joined the firm of Young, Moore, Henderson & Alvis in Raleigh. In 1983 Ms. Weyher became one of the founding partners of Yates, McLamb & Weyher. She now serves as senior counsel to the firm.

Ms. Weyher's practice is primarily in the areas of insurance coverage, professional liability, and alternate dispute resolution. She has been a certified mediator since 1995. She is a member of the North Carolina Academy of Superior Court Mediators and

is an American Arbitration Association Panel member.

Ms. Weyher has provided invaluable service to the North Carolina State Bar. She served as the president of the State Bar from 2009 to 2010. In addition to her role as an officer, Ms. Weyher's service to the State Bar included nine years as a State Bar councilor representing Wake County's 10th Judicial District. During her time as a councilor, Ms. Weyher served on the Executive Committee, the Issues Committee, and the Publications Committee. She also chaired the Grievance Committee, the Ethics Committee, and the Authorized Practice of Law Committee. In addition, she served on the State Bar's Disciplinary Hearing Commission from 2012 to 2015.

Ms. Weyher has also been active with the North Carolina Bar Association. She is a member of the Litigation Section, the Insurance Section, and the Dispute Resolution Section. She has served as chair of the Litigation Section and as secretary and CLE chair of the Dispute Resolution

Section.

Ms. Weyher served as president of the Wake County Bar Association in 1997 and as a member of the American Bar Association's House of Delegates from 2012 to 2016.

Ms. Weyher is active with UNC Law School. She has served as president of the Alumni Association and as a member of the Chancellor's Scholarship Committee for the law school. In 2014 she received the UNC School of Law Distinguished Alumni Award. She has also been awarded the North Carolina Association of Women Attorneys' Gweneth B. Davis Public Service Award and the Women of Justice Award by *North Carolina Lawyers Weekly*.

### Nominations Sought

Members of the Bar are encouraged to nominate colleagues who have demonstrated outstanding service to the profession. The nomination form is available on the State Bar's website, [ncbar.gov](http://ncbar.gov). Please direct questions to Suzanne Lever, [SLever@ncbar.gov](mailto:SLever@ncbar.gov). ■

# February 2019 Bar Exam Applicants

The February 2019 bar examination will be held in Raleigh on February 26 and 27, 2019. Published below are the names of the applicants whose applications were received on or before October 30, 2018. Members are requested to examine it and notify the board in a signed letter of any information which might influence the board in considering the general fitness of any applicant for admission. Correspondence should be directed to Lee A. Vlahos, Executive Director, Board of Law Examiners, 5510 Six Forks Rd., Suite 300, Raleigh, NC 27609.

Sarah Abdelmessih Raleigh, NC	Katherine Bordwine Greensboro, NC	Jean Christy Asheville, NC	Jacqueline Douglas Greensboro, NC	Tanisha Folks Fuquay Varina, NC
James Ablard Wilmington, NC	Kevin Boston Lumberton, NC	Timothy Clanton Raleigh, NC	Elizabeth Downer Greensboro, NC	Jamaal Forney Fayetteville, NC
Robert Adler Waxhaw, NC	Michael Boykin Raleigh, NC	Thomas Clark Roebuck, SC	Charles Draeger Colfax, NC	Kerese Foster Greensboro, NC
David Ahmadi Raleigh, NC	Daniel Braswell Durham, NC	Gerard Clodomir Greensboro, NC	William Drennen St. Louis, MO	Meghan Francis Ravenel, SC
Dawnwin Allen Charlotte, NC	Joseph Brennan Charlotte, NC	Monica Cloud Silver Spring, MD	Megan Dyer Winston-Salem, NC	Lauren Franklin Rockwell, NC
Markea Allen Fayetteville, NC	Joseph Brewer Raleigh, NC	Roger Condrey Concord, NC	Abigail Eder Cary, NC	Joshua Franks Raleigh, NC
Margarete Allio Johns Island, SC	Kayla Britt Durham, NC	Chelsea Cook Durham, NC	Shanelle Edmonds Pittsboro, NC	Sarah Freeman Charlotte, NC
Toya Allison Fayetteville, NC	Connor Brooks Raleigh, NC	Birshari Cooper Cary, NC	Jake Edwards Gastonia, NC	Matthew Freeze Salisbury, NC
Hailey Amico Mount Pleasant, SC	Blakeney Brown Gastonia, NC	Rodneycia Cooper St. Petersburg, FL	Michael Edwards Dudley, NC	Nikira Fults Concord, NC
Katherine Anderson Charleston, SC	Carmen Brown Hickory, NC	Sarah Cortvriend North Palm Beach, FL	Nicole Edwards Raleigh, NC	Lisa Garner Greensboro, NC
Rebecca Anderson Greensboro, NC	Julia Brown Greensboro, NC	Jason Cramer Fuquay Varina, NC	Jonathan Ekblad Raleigh, NC	Danielle Garon Charlotte, NC
Nicole Arrington Charlotte, NC	Neilson Brown Huntersville, NC	Jordan Cranman Raleigh, NC	Jacques El-Chayeb Chapel Hill, NC	Gary Gassel Sarasota, FL
Zeliha Arslan High Point, NC	Jennifer Bryan Bladenboro, NC	Ashia Crooms-Carpenter Mint Hill, NC	Grant Engebretsen Durham, NC	Gia Gaster McLeansville, NC
Taimoor Aziz Bunnlevel, NC	Catherine Bryant Greensboro, NC	Reko Currie Greensboro, NC	Lomenie Etienne Olando, FL	Seth Gerringer Burlington, NC
Tameka Baldwin Raleigh, NC	Renee Burris New London, NC	Coy Curry Wilkesboro, NC	Micaela Evans Greensboro, NC	Rachel Gessouroun Edmond, OK
Catherine Bamba Raeford, NC	Asia Buss Spring Lake, NC	Jason Dangler Charlotte, NC	Celsey Fannin Greensboro, NC	Shauna Gibson Wilmington, NC
Jenna Bass Fuquay Varina, NC	Micah Byrd Winston-Salem, NC	Rachel Davis Mooresville, NC	Cala Farina Cary, NC	Geoffrey Gilbert Delray Beach, FL
Latasha Bembury Durham, NC	Brent Caldwell Durham, NC	Yolanda Davis Raleigh, NC	Caitlin Farmer Waxhaw, NC	Charlene Gilliam Asheville, NC
Victoria Bennett Raleigh, NC	Anthony Campbell Whitsett, NC	Nicole Debartolo Monroe, NC	Imran Farooqi Huntersville, NC	Kiarra Gilliam Charlotte, NC
Andre Bess Durham, NC	Ashley Campbell Whitsett, NC	Lane Debellis Winston-Salem, NC	Annette Faw Wilkesboro, NC	Amie Goldberg Winston Salem, NC
Kevona Bethune Hope Mills, NC	Bridget Campbell Atkinson, NC	Joseph Demartin Raleigh, NC	Elizaveta Fedun Hendersonville, NC	Zachary Goldberg Charlotte, NC
Kimberley Beyer Glenville, NC	Natashia Cannedy Charlotte, NC	Joseph Dennis Morganton, NC	Jennifer Feinstein Raleigh, NC	Madeline Gootman Durham, NC
Brandye Birdsall Elizabeth City, NC	Christa Castillo Indian Land, SC	Anna Devries Charlotte, NC	Anna Finger Dallas, TX	Linda Green Holly Springs, NC
Latoya Blackwell Fuquay-Varina, NC	James Chandler Charlotte, NC	Bertha Dixon Browns Summit, NC	James Fleming Winston-Salem, NC	Susan Gregory Sarasota, FL
Sarah Blessing Raleigh, NC	Laura Chase Angier, NC	Greg Dixon Elizabeth City, NC	Alexa Flores Cary, NC	Chelsea Habermann Rock Hill, SC
James Blohm Raleigh, NC	Katherine Chatman Tampa, FL	Jeffrey Dodson Nashville, NC	Anna Bryce Flowe Matthews, NC	Lejla Hadzic Concord, NC
Marvilyn Bohannon Mebane, NC	Richard Chen Raleigh, NC	Alexander Doernberg Cary, NC	Alexandra Floyd Whiteville, NC	Sandra Hagood Chapel Hill, NC
Paula Booth Winston-Salem, NC	Yingtong Chen Oakland, CA	Timothy Doherty Charlotte, NC	Derrick Foard Concord, NC	Matthew Hall Dobson, NC



<b>Chao Han</b> Swannanoa, NC	<b>Omar Kalala</b> Charlotte, NC	<b>Natalie Mccann</b> Wake Forest, NC	<b>David Nolan</b> Hope Mills, NC	<b>Gary Redding</b> Halifax, NC
<b>Matthew Hartburg</b> Raleigh, NC	<b>Caitlin Kannan</b> Castle Hayne, NC	<b>Kia McCormick</b> Raleigh, NC	<b>Robert Northington</b> Greensboro, NC	<b>Katlyn Reh</b> Charlotte, NC
<b>Kia Harvey</b> Winston-Salem, NC	<b>Mark Kaplan</b> Charlotte, NC	<b>Courtney Mcginness</b> Wilmington, NC	<b>Erick Odom</b> Raleigh, NC	<b>Stacy Reid Monroe</b> Charlotte, NC
<b>Morgan Harvey</b> Greensboro, NC	<b>Laura Kays</b> Wilmington, NC	<b>Kelli McGonagle</b> Clayton, NC	<b>Laura O'Grady</b> Fayetteville, NC	<b>Jacqueline Reitz</b> Raleigh, NC
<b>Tommy Harvey</b> Tyrone, GA	<b>Jackie Keener</b> Knightdale, NC	<b>Samantha Mchone</b> Mount Airy, NC	<b>Rebecca Olla</b> Durham, NC	<b>Maria Rengifo</b> Raleigh, NC
<b>Latonya Hayes</b> Stone Mountain, GA	<b>Maryam Khan</b> Greensboro, NC	<b>William Mchugh</b> Leland, NC	<b>Valery Ortiz Caicedo</b> Fort Mill, SC	<b>Amber Resetar</b> Castle Hayne, NC
<b>Holly Hege</b> Lexington, NC	<b>Korey Kiger</b> Raleigh, NC	<b>Ian McIntyre</b> Macon, GA	<b>Sarah Owens</b> Charlotte, NC	<b>Julie Reynolds-Engel</b> Asheville, NC
<b>Christopher Heller</b> Winnabow, NC	<b>Javier King</b> Chapel Hill, NC	<b>Scarlett Mckinney</b> Leicester, NC	<b>Gunsel Ozcan</b> Charlotte, NC	<b>Morgan Ricci</b> Matthews, NC
<b>Jaclyn Helton</b> Burlington, NC	<b>Michael King</b> Morrisville, NC	<b>Lauren Mckoy</b> Broadway, NC	<b>Gabrielle Padgett</b> Irvine, CA	<b>Gloria Rice</b> Charlotte, NC
<b>Jordan Hensley</b> Greensboro, NC	<b>Julie Kirstein</b> Fairview, NC	<b>Jeffrey Mcmillion</b> Graham, NC	<b>Joseph Parda</b> Bunnlevel, NC	<b>Elinor Riefkohl</b> Pinehurst, NC
<b>Ashley Henson</b> Wilmington, NC	<b>Meredith Kittrell</b> Raleigh, NC	<b>Alfred Mcqueen</b> Winston Salem, NC	<b>Jonathan Parisi</b> Greensboro, NC	<b>Lisa Roach</b> Charlotte, NC
<b>Michelle Herd</b> Birmingham, AL	<b>Mercedes Knight</b> Tarboro, NC	<b>Jazemine Mcsween</b> Rockingham, NC	<b>Ellie Parker</b> Burlington, NC	<b>Jalisa Roberts</b> Winston-Salem, NC
<b>Madison Hill</b> Hendersonville, NC	<b>Larry Koonce</b> Fayetteville, NC	<b>Heidi Mehaffey</b> Plantation, FL	<b>Roshni Patidar</b> Charlotte, NC	<b>Nicholas Roberts</b> Salado, TX
<b>Gary Hilton</b> Maiden, NC	<b>Daniel Krchnavek</b> Waco, TX	<b>Charles Melcombe</b> Durham, NC	<b>Andrew Peace</b> Charlotte, NC	<b>Zachary Roberts</b> Huntersville, NC
<b>Catherine Hipps</b> Carrboro, NC	<b>Fredrick Kromis</b> Dallas, NC	<b>Russell Michalec</b> Salisbury, NC	<b>Joshua Peace</b> Charlotte, NC	<b>Steffi Rodriguez</b> Saint Cloud, FL
<b>Stephen Hodges</b> Los Angeles, CA	<b>Shveta Kulkarni</b> Raleigh, NC	<b>Sherold Michaux</b> Greensboro, NC	<b>Michael Peevy</b> Raleigh, NC	<b>Laura Rodriguez Castro</b> Raleigh, NC
<b>Tia Hudgins</b> Rocky Mount, NC	<b>Margaret Kurz</b> Fayetteville, NC	<b>David Miller</b> Charlotte, NC	<b>Blanca Pilgrim</b> Raleigh, NC	<b>Matthew Roller</b> Lexington, NC
<b>Taylor Hudson</b> Apex, NC	<b>Asia Lance</b> Greensboro, NC	<b>Jonathan Miller</b> Raleigh, NC	<b>Scheherazade Pittman</b> Raleigh, NC	<b>Bradley Rooney</b> Advance, NC
<b>Michelle Iqbal</b> Charlotte, NC	<b>Adam Langino</b> Chapel Hill, NC	<b>William Miller</b> Greensboro, NC	<b>Tanya Plekan</b> Cary, NC	<b>Erin Rousseau</b> Morrisville, NC
<b>Olivia Izzie</b> Durham, NC	<b>John Lanier</b> Greensboro, NC	<b>Catherine Mitchell</b> Durham, NC	<b>Alexandra Porte</b> Charleston, SC	<b>David Rusk</b> Charlotte, NC
<b>Shinead James</b> Loris, SC	<b>Scott Lanier</b> Charlotte, NC	<b>Heather Mitchell</b> Charlotte, NC	<b>Jeffrey Porter</b> Whitsett, NC	<b>Lauren Russell</b> Wilmington, DE
<b>Dana Jamison</b> Riverside, CA	<b>Rebecca Laton</b> Carthage, NC	<b>David Mohrmann</b> Raleigh, NC	<b>Jose Posada</b> Charlotte, NC	<b>Karen Rust</b> Jamestown, NC
<b>Joseph Jenkins</b> Charlotte, NC	<b>Elizabeth Lawson</b> Winston Salem, NC	<b>Kelsey Monk</b> Raleigh, NC	<b>Marsha Poston</b> King, NC	<b>Carlton Ryals</b> Raleigh, NC
<b>Lucas Jensen</b> Cary, NC	<b>Clifford Leagan</b> Mount Airy, NC	<b>Sondra Monroe</b> Huntersville, NC	<b>Lauren Presnell</b> Black Mountain, NC	<b>Misty Ryan</b> Charlotte, NC
<b>Cameron Joe</b> Raleigh, NC	<b>Kelsey Lee</b> Concord, NC	<b>Jessica Moreau</b> Mooresville, NC	<b>Brandon Price</b> Fayetteville, NC	<b>Ziaedeen Saadat</b> Greensboro, NC
<b>Ariana Johnson</b> Charlotte, NC	<b>Shianne Legrand</b> Greensboro, NC	<b>Jana Morrison</b> Charlotte, NC	<b>William Price</b> Durham, NC	<b>Steven Sacco</b> Sneads Ferry, NC
<b>Jasmine Johnson</b> Elm City, NC	<b>William Leopard</b> Chapel Hill, NC	<b>Timberley Motsinger</b> Greensboro, NC	<b>Victoria Prince</b> Raleigh, NC	<b>Leonard Saltzman</b> Albemarle, NC
<b>Sarah Johnson</b> Siloam, NC	<b>Andrew Leslie</b> Kannapolis, NC	<b>Sarah Mullins</b> Cornelius, NC	<b>Rachel Procaccini</b> Bluefield, WV	<b>Jessalyn Santiago</b> Wake Forest, NC
<b>Bridget Jolly</b> Mint Hill, NC	<b>Colin Lloyd</b> Raleigh, NC	<b>Ryan Mumper</b> Durham, NC	<b>Michael Provencher</b> Fayetteville, NC	<b>Noel Santorelli</b> Leland, NC
<b>April Jones</b> Charlotte, NC	<b>Sara Locklear</b> Landis, NC	<b>Gilbert Munoz-Cornejo</b> Fuquay Varina, NC	<b>Elyse Purnell Crawford</b> Macon, GA	<b>David Saterfield</b> Raleigh, AR
<b>Casey Jones</b> Wilson's Mills, NC	<b>Jared Lumley</b> Greensboro, NC	<b>Jerry Murphy</b> Tyler, TX	<b>Brandi Quattlebaum</b> Columbia, SC	<b>Ashlee Schaller</b> Durham, NC
<b>Charles Jones</b> Greenville, NC	<b>Kelcee Mader</b> Gainesville, FL	<b>Talicia Neal</b> Raleigh, NC	<b>Miroslava Radieva</b> Hurdle Mills, NC	<b>Michael Schehr</b> Charlotte, NC
<b>Dax Jones</b> Greensboro, NC	<b>Mason Maney</b> Philadelphia, PA	<b>Barbara Nelson</b> Goldsboro, NC	<b>Carlton Rainer</b> Charlotte, NC	<b>Abigail Schuette</b> Charlotte, NC
<b>Keren Jones</b> Greensboro, NC	<b>Robert Martin</b> Greensboro, NC	<b>James Nelson</b> Harrisburg, NC	<b>Hollie Ramalingam</b> Mebane, NC	<b>Brooke Scott</b> Raleigh, NC
<b>Thomas Jones</b> Candler, NC	<b>Joseph Martinez</b> Valdese, NC	<b>Benjamin Newbern</b> Aulander, NC	<b>William Ramos</b> Holly Springs, NC	<b>Christopher Scott</b> Asheboro, NC
<b>Marianna Kacjuba</b> Charlotte, NC	<b>Ellen Matthews</b> Birmingham, AL	<b>Jonathan Nobles</b> Raleigh, NC	<b>Caroline Ray</b> Graham, NC	<b>Djenaba Scott</b> Charlotte, NC

Emily Scotton Greensboro, NC	Emily Smith Peacock Raleigh, NC	Alexis Sylvester Greensboro, NC	Gabriell Vires Durham, NC	Patti Williams Waxhaw, NC
Taylor Scruggs-Smith Raleigh, NC	Meredith Solomon Johnson Raleigh, NC	Edward Tarantino Troutman, NC	Stephanie Vlasis Winston-Salem, NC	Richard Williams Greensboro, NC
Matthew Sellers Chapel Hill, NC	Gabriel Soto-Perez Chantilly, VA	Justine Tate West Columbia, SC	Armand Volta Westminster, MD	Herman Wilson Jr Fayetteville, NC
Edith Serrano Rougemont, NC	Brittany Spencer Wadesboro, NC	Olivia Taylor Washington, NC	Beatrice Walker Knightdale, NC	Benjamin Winograd Carrboro, NC
Deondra Sexton Charlotte, NC	Jordan Sprenger-Wilson Charlotte, NC	Frederick Terrell Hamlet, NC	Grace Wallace Durham, NC	Lauren Wolfe Charleston, SC
Abigail Seymour Greensboro, NC	Marissa Sprick Charlotte, NC	Sara-Beth Testerman Charlotte, NC	Evan Walton Winston Salem, NC	Zachary Woltz Sneads Ferry, NC
Kerry Shipman Charleston, SC	Avery Staley Mooresville, NC	Madison Thornton Greensboro, NC	Austin Warner Atlanta, GA	Kyla Wonder Durham, NC
Casey Simmons Charlotte, NC	Danny Stamey Pasadena, CA	Geoffrey Tilford Pittsboro, NC	Angela Watkins Monroe, NC	Dorian Woolaston Winston-Salem, NC
Andrew Simpson Chapel Hill, NC	Happy Stewart Asheville, NC	Tyson Toles Apex, NC	Tamikiyo Watters Durham, NC	Brian Wooten Winston Salem, NC
Brianna Singletary Clayton, NC	Matthew Stiglbauer Charlotte, NC	Katherine Trotter Nashville, TN	Caroline Waugh Mooresville, NC	John Wright Frederick, MD
Ashley Skaff Durham, NC	Elisabeth Stone Harlan, KY	Joseph Turner Mebane, NC	Karen Wellington Wilson, NC	Logan Wyont Wilmington, NC
Jonathan Slager Columbia, SC	Jessica Stone-Erdman Chapel Hill, NC	Walter Tuttle Raleigh, NC	Michael Wheaton Charlotte, NC	James Yandle Charlotte, NC
Paul Sloderbeck Oxford, NC	Samuel Sue Greensboro, NC	Laquanda Tysinger Burlington, NC	Alexa Whiteside Los Angeles, CA	Elizabeth Young Gaithersburg, MD
Brittany Smiley Topsail Beach, NC	Carolyn Suhocki Charleston, SC	Stephen Valentine Durham, NC	Liling Wilford Greenville, NC	Xenia Zeballos Parra Indian Land, SC
Bradley Smith Charlotte, NC	Laurie Suitt Durham, NC	Samantha Varney Lexington, NC	Michelle Willauer Washington, DC	Leighton Zhong Orlando, FL
Hannah Smith Winston-Salem, NC	Melissa Sumner Greensboro, NC	Benjamin Venable Charlotte, NC	Destiny Williams Garner, NC	
Rachel Smith Durham, NC	Jeffrey Swing High Point, NC	Alexandra Viele Greensboro, NC	Kendell Williams Henderson, NC	

## State Bar Annual Reports (cont.)

a drug overdose created a unique opportunity for LAP. The article was widely circulated throughout North Carolina's largest law firms, resulting in the first-ever LAP presentation at a Risk Management Roundtable with managing partners and general counsel of a dozen large firms. The presentation, held in September 2017, focused on strategies and policies firms can implement to catch issues before they blossom into malpractice claims, ethical violations, client harm, or reputational damage. LAP was well received and has been invited into these firms to begin training partners, lawyers, and staff on recognizing and addressing these issues. *Lawyers Weekly* featured an article about the roundtable, leading Lawyers Mutual Insurance to request that LAP provide a similar presentation at a Managing Partners Summit hosted for their insureds in May 2018. LAP is now scheduled for in-house trainings with some of those firms as well. Given reports from LAP programs nationally, NC law firms are leading the nation in proactively adopting programs and instituting training to identify and

address these issues.

Members of the LAP Steering Committee have been building relationships with the deans of students at each of our NC law schools for several years. As a result, and with the stewardship of LAP volunteer Tom Roman, LAP is scheduled to hold office hours this fall at UNC Chapel Hill, Wake Forest University, NC Central University, and Elon University. LAP volunteers will be visiting schools and interfacing directly with students—also a first for LAP. We are all curious and excited to see the results of this engagement and, based upon what we learn, explore how we might improve and modify our approach for the spring of 2019.

This year LAP partnered with Laura Mahr of Conscious Legal Minds. Beginning in February 2018, LAP began sponsoring mindfulness-based stress reduction CLEs across the state with Ms. Mahr as the CLE speaker. We worked with CLE sponsors such as local district bars and legal organizations who were seeking innovative programming. The theme for the year was "Beginning a Conversation" about stress reduction and mindfulness techniques to improve the real-world, day-to-day

experiences of lawyers in practice. We have received overwhelmingly positive feedback.

LAP staff and volunteers gave 84 CLE presentations and LAP opened 167 files this year. Attendance at our Minority Outreach Conference soared. By moving to a new venue, we are now able to abandon the wait-list. We had just over 600 attorneys register this year, with 538 in attendance.

I will end on a note of thanks to each and every LAP volunteer who contributed to our success this year. Whether by writing an article, speaking at a CLE, mentoring a lawyer, visiting a lawyer in distress, or any other contribution, both large and small, your combined and cumulative activities made a huge impact in the efficacy and visibility of our program. A special note of thanks to LAP volunteer Tom Roman, who has been assisting us in the office during the prolonged vacancy we have experienced while trying to find a suitable replacement for Towanda Garner. Our ability to hold office hours in the law schools this fall is owed in no small measure to Tom's considerable passion, focus, and coordination. For a detailed annual report, please visit [nclap.org/annual-report](http://nclap.org/annual-report). ■

# The North Carolina State Bar and Affiliated Entities

## Selected Financial Data

The North Carolina State Bar			Operating expenses (3,266,308) (8,146,807)			Revenues and Expenses		
			Non-operating revenues 125,103 85,964			Operating revenues-		
2017			Net income (loss) \$(1,234,499) \$5,978,944			specialization fees \$184,535 \$179,300		
Assets			Board of Client Security Fund			Operating expenses (206,060) (183,034)		
			2017			Non-operating revenue = 2		
Cash and cash			Assets			Net income \$(21,525) \$(3,732)		
equivalents \$7,858,566 \$6,221,785			Cash and cash			The Chief Justice's Commission on		
Property and			equivalents \$1,448,612 \$602,022			Professionalism		
equipment, net 15,460,710 16,239,757			Other assets 4,850 =			2017		
Other assets 1,056,065 1,009,676			\$1,453,462 \$602,022			Assets		
\$24,375,341 \$23,471,218			Liabilities and Fund Equity			Cash and cash		
Liabilities and Fund Equity			Current liabilities \$48,653 \$59,649			equivalents \$450,226 \$434,902		
Current liabilities \$6,477,580 \$4,789,288			Fund equity-			Other assets = =		
Long-term debt 9,701,118 10,185,530			retained earnings 1,404,809 542,373			\$450,226 \$434,902		
16,178,698 14,974,818			\$1,453,462 \$602,022			Liabilities and Fund Equity		
Fund equity-			Revenues and Expenses			Current liabilities - 525		
retained earnings 8,196,643 8,496,400			Operating revenues \$1,726,154 \$730,556			Fund equity-		
\$24,375,341 \$23,471,218			Operating expenses (863,855) (1,319,154)			retained earnings 450,226 434,377		
Revenues and Expenses			Non-operating revenues 137 286			\$450,226 \$434,902		
Dues \$8,449,799 \$8,239,550			Net loss \$862,436 \$(588,312)			Revenues and Expenses		
Other operating			Board of Continuing Legal Education			Operating revenues-		
revenues 1,030,945 996,582			2017			fees \$360,753 \$386,825		
Total operating			Assets			Operating expenses (344,904) (329,544)		
revenues 9,480,744 9,236,132			Cash and cash			Non-operating revenues = =		
Operating expenses (9,407,056) (9,122,891)			equivalents \$519,848 \$607,976			Net income \$15,849 \$57,281		
Non-operating			Other assets 3,732 9,393			Board of Paralegal Certification		
expenses (373,445) (375,371)			\$523,580 \$617,369			2017		
Net income \$(299,757) \$(262,130)			Liabilities and Fund Equity			Assets		
The NC State Bar Plan for Interest on			Current liabilities 206,910 272,230			Cash and cash		
Lawyers' Trust Accounts (IOLTA)			Fund equity-			equivalents \$424,871 \$458,134		
2017			retained earnings 316,670 345,139			Other assets 3,754 6,683		
Assets			\$523,580 \$617,369			\$428,625 \$464,817		
Cash and cash			Revenues and Expenses			Liabilities and Fund Equity		
equivalents \$1,723,201 \$1,774,393			Operating revenues \$708,094 \$709,948			Current liabilities -		
Interest receivable 216,852 204,793			Operating expenses (736,563) (697,249)			accounts payable 65,893 72,847		
Other assets 9,397,027 11,637,546			Non-operating revenues = 4			Fund equity-		
\$11,337,080 \$13,616,732			Net (loss) income \$(28,469) \$12,703			retained earnings 362,732 391,970		
Liabilities and Fund Equity			Board of Legal Specialization			\$428,625 \$464,817		
Grants approved			2017			Revenues and Expenses		
but unpaid \$4,597,745 \$2,032,335			Assets			Operating revenues-		
Other liabilities 1,209,834 4,820,397			Cash and cash			fees \$256,660 \$256,780		
5,807,579 6,852,732			equivalents 164,785 180,694			Operating expenses (285,898) (265,815)		
Fund equity-			Other assets 3,502 6,835			Non-operating revenues = 13		
retained earnings 5,529,501 6,764,000			\$168,287 \$187,529			Net income \$(29,238) \$(9,022)		
\$11,337,080 \$13,616,732			Liabilities and Fund Equity					
Revenues and Expenses			Current liabilities 12,154 9,871					
Interest from IOLTA			Fund equity-					
participants, net \$1,818,133 \$1,767,287			retained earnings 156,133 177,658					
Other operating			\$168,287 \$187,529					
revenues 88,573 12,272,500								
Total operating								
revenues 1,906,706 14,039,787								



NORTH CAROLINA

# Leaders & INNOVATORS

***WE MADE HISTORY  
WHEN WE STARTED.***

***WE'VE BEEN DOING  
IT EVER SINCE.***

When Lawyers Mutual was founded in 1977, we became the first insurance company of our kind in the country.

Since then, we've been the only one to provide continuous protection for North Carolina lawyers – year in and year out. That's a legacy we're proud of.

But we're not resting on our laurels. We keep finding new ways to serve you.

When you do well, we do well.

Let's keep making history together.

**919.677.8900 800.662.8843**

**[www.lawyersmutualnc.com](http://www.lawyersmutualnc.com)**

Winter 2018

If not for the confidential nature of what we do,  
you'd hear about our success stories all the time.

One of these lawyers contacted LAP for help and today  
has several years of recovery. Can you tell which one?



**Free, confidential assistance is available.**  
Contact us today: [info@nclap.org](mailto:info@nclap.org) or [WWW.NCLAP.ORG](http://WWW.NCLAP.ORG)

**NCLAP**  
NORTH CAROLINA  
LAWYER ASSISTANCE PROGRAM

Charlotte & West  
(704) 910-2310

Piedmont Area:  
(919) 719-9290

Raleigh & East:  
(919) 719-9267