



The North Carolina State Bar
Office of Counsel

2018
Annual
Report

Office of Counsel Staff

LAWYERS

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Carmen H. Bannon, Deputy Counsel	Ext. 283
Maria J. Brown, Deputy Counsel	Ext. 213
Susannah B. Cox, Deputy Counsel	Ext. 235
A. Root Edmonson, Deputy Counsel	Ext. 229
Leonor B. Hodge, Trust Account Compliance Counsel & Deputy Counsel	Ext. 299
David R. Johnson, Deputy Counsel	Ext. 230
Barry M. McNeill, Deputy Counsel	Ext. 298
G. Patrick Murphy, Deputy Counsel	Ext. 206
Alex G. Nicely, Deputy Counsel	Ext. 281
Savannah B. Perry, Deputy Counsel	Ext. 219
Jennifer A. Porter, Deputy Counsel	Ext. 262
Fern Gunn Simeon, Deputy Counsel	Ext. 258
Joshua T. Walthall, Deputy Counsel	Ext. 225
Mary D. Winstead, Deputy Counsel	Ext. 204

ADMINISTRATIVE STAFF

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Todd Bascom, Paralegal	Ext. 254
Lori Brooks, Administrative Assistant	Ext. 232
Becky Carroll, Paralegal	Ext. 234
Mary Lee, Trust Account Paralegal	Ext. 251
Jeffrey Lundgen, Paralegal	Ext. 120
Wondella Payne, Paralegal	Ext. 296
Joan Renken, Administrative Assistant	Ext. 295
Mike Shirley, Paralegal	Ext. 121
Jennifer Slattery, Paralegal	Ext. 205
Brittany Wilson, Paralegal	Ext. 280

INVESTIGATORS

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Fred Patton, Acting Director of Investigations	Ext. 266
Anne Parkin, Random Auditor	Ext. 259
Krista Carlson, Investigator	Ext. 224
Marty Coolidge, Investigator	Ext. 294
Rick Grayson, Investigator	Ext. 274
Doug Miller, Investigator	Ext. 263
Carolyn Page, Investigator	Ext. 285
Randy Ross, Investigator (Client Security Fund)	Ext. 201
Paul Sugrue, Investigator	Ext. 284
Wayne Truax, Investigator	Ext. 292

INVESTIGATIONS ADMNISTRATIVE STAFF

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Dawn Patton, Administrative Assistant	Ext. 278
Sonja Puryear, Investigative Clerk	Ext. 203
Chris Woods, Investigative Assistant	Ext. 222

ATTORNEY/CLIENT ASSISTANCE PROGRAM STAFF

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Kerri Bianchi, Fee Dispute Facilitator	Ext. 228
Diane Melching, Administrative Assistant	Ext. 287
Courtney Pope, Public Liaison	Ext. 260
Sandra Saxton, Public Liaison	Ext. 264

OFFICE OF COUNSEL

The Office of Counsel (“OOC”) is the legal department of the North Carolina State Bar. The OOC consists of disciplinary staff, authorized practice staff, the investigations department, the Attorney/Client Assistance Program (ACAP) staff, and the trust account compliance program. The OOC reports to the Grievance Committee upon all grievance files opened by the State Bar involving allegations of professional misconduct by North Carolina lawyers. It investigates and tries claims of professional misconduct and disability. The OOC assists the Authorized Practice Committee by investigating and reporting upon complaints concerning the unauthorized practice of law, including representing the State Bar in lawsuits to obtain injunctions prohibiting the unauthorized practice of law. It provides legal counsel to the Client Security Fund Board of Directors and pursues subrogation actions for recovery of funds paid by the CSF. It coordinates the appointment of trustees to wind down the practices of deceased, disabled, and disbarred lawyers and obtains court orders to disburse funds in the trust accounts of disbarred and suspended lawyers. The OOC represents the State Bar in litigation in federal and state trial and appellate courts and provides legal opinions on issues of interest to all departments, committees, and boards of the State Bar.

The ACAP staff helps members of the public resolve problems with lawyers other than matters involving potentially serious violations of the Rules of Professional Conduct. The ACAP staff also provides information about the grievance process, the courts and the justice system, and helps resolve fee disputes between lawyers and their clients.

The OOC includes sixteen lawyers, one of whom serves as trust account compliance counsel, one administrator, ten investigators, one random auditor, eight paralegals, four administrative assistants, one investigative assistant, two investigative clerks, the ACAP director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator, and two public liaisons.

The Office of Counsel is located in the State Bar Building, 217 E. Edenton St., Raleigh, N.C. 27601. It is open from 9 a.m. until 5 p.m. on weekdays and may be reached at 919-828-4620. Each staff person’s telephone extension appears above.

2018 ANNUAL REPORT OFFICE OF COUNSEL THE NORTH CAROLINA STATE BAR

Attorney Client Assistance Program

The Attorney Client Assistance Program (“ACAP”) is comprised of five staff members: the director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator, two public liaisons, and one administrative assistant. During 2018, the staff responded to 13,648 calls from clients and other members of the public. The ACAP staff also responded to 2,336 letters from inmates and 3,155 email messages from clients and lawyers. The ACAP staff contacted 2,936 lawyers in attempts to resolve clients’ concerns.

The State Bar opened 532 fee dispute resolution files during 2018. Of those, 67 files were assigned to five judicial district fee dispute resolution committees. The remaining 463 were assigned to in-house facilitators.

Authorized Practice Committee

The Authorized Practice Committee opened 78 investigation files in 2018, compared to 107 investigation files opened in 2017, 87 files in 2016, and 108 files in 2015. The committee resolved 91 files during 2018, compared to 90 files in 2017, 97 files in 2016, and 110 files in 2015.

The committee also registers prepaid legal service plans. Plans must file initial registrations and amended registrations and submit annual renewals. The committee does not approve plans but does review registrations to confirm that proposed plans and amendments fall within the definition of a prepaid legal service plan. During 2018, 17 proposed plans were submitted for registration; five were registered and four were not registered. The OOC is reviewing the remaining eight submissions. Eighty-four amendments were submitted for existing plans, 42 of which were registered and 42 of which were denied or denied registration in part.

In July 2017, the Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against **Michael Asen** and the **Zimmerman Group**. Asen is a New York attorney. It is alleged that Asen attempts to collect civil penalties from persons accused of shoplifting in North Carolina and that the Zimmerman Group offers Asen’s services to retailers. The OOC has prepared the complaint and is negotiating a consent injunction.

At the October 2017 meeting, the Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against **Freedom Debt Relief**. Freedom Debt Relief is a California-based company alleged to provide debt adjusting services and to offer to provide attorneys to assist its customers when they are sued by creditors. Freedom Debt Relief agreed to stop engaging in the activities that constitute the unauthorized practice of law and, at the October 2018 meeting, the Executive Committee withdrew its authorization to file suit.

At the April 2018 meeting, the Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against **National Debt Relief**, a New York company. It is alleged that National Debt Relief provides debt adjusting services and offers to provide attorneys to assist its customers who are sued by creditors. The OOC is negotiating a consent resolution.

At the July 2018 meeting, the Executive Committee authorized the OOC to file a lawsuit seeking injunctive relief against a Charlotte notary public named **Linh Quach**. It is alleged that Quach holds out that she is able to help Vietnamese immigrants on immigration issues with the Department of Homeland Security. It is alleged that Quach receives significant fees for her services and advice, much of which is erroneous or inaccurate. Quach did not file a responsive pleading. The OOC is pursuing default judgment.

The OOC continues to work closely with the Consumer Protection Division of the North Carolina Attorney General's Office to prevent the unauthorized practice of law in North Carolina, particularly persons and entities that offer legal services in the areas of debt adjusting, loan modification, and preparation of living trusts for senior citizens.

Trust Accounting Compliance Program

Twenty lawyers currently participate in the Trust Accounting Compliance Program. In 2018, thirteen lawyers successfully completed the program. In 2017, nine lawyers successfully completed the program.

Grievance Committee Actions

During 2018, the Grievance Committee opened 1,252 grievance files, compared with 1,305 files opened in 2017.

Also in 2018, the OOC reviewed three direct mail solicitation letters or other advertising materials. All involved minor violations of advertising ethics rules. The Grievance Committee opened two grievance files and resolved one without opening a grievance file. The OOC reviewed seven direct mail solicitation letters in 2017. It opened six grievance files and resolved one inquiry without opening a grievance file.

All grievance files are considered and acted upon by one or more members of the Grievance Committee. The committee considered a total of 1,250 grievance files in 2018. Of those, 948 were dismissed. Twenty-five files were dismissed and retained because the respondent lawyers had been disbarred. Seven files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 79 percent of the grievance files considered by the committee. In addition to the grievance files that were dismissed outright in 2018, 16 files were dismissed with letters of caution and 52 were dismissed with letters of warning.

In 2018, the Grievance Committee issued admonitions in 23 files, reprimands in 20 files and censures in 21 files. One hundred-fourteen files involving 44 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 178 grievance files resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately 14 percent of the grievances considered by the committee in 2018. The committee entered three orders of reciprocal discipline, referred three lawyers to the Lawyer Assistance Program, and referred twelve lawyers to the Trust Accounting Compliance Program.

Cases Before the Disciplinary Hearing Commission

1. Discipline and Disability Cases

The DHC is the independent tribunal which hears lawyer discipline and disability cases. The 20-member commission hears cases involving alleged violations of the Rules of Professional Conduct, cases in which it is alleged that a lawyer is disabled, petitions from disbarred and suspended lawyers seeking reinstatement of their law licenses, and petitions to require a lawyer to show cause why he or she should not be found to have violated an existing order of the DHC. Each case is heard by a panel of three consisting of two lawyers and one public member.

During 2018, the OOC completed a total of 50 disciplinary, reinstatement and show cause cases before the DHC, representing 65 files referred by the Grievance Committee. Of those, 13 were resolved by hearing or default judgment and 37 were resolved by consent. In 2017, the office completed 46 such cases of which 15 were resolved by trial and 31 were resolved by consent.

In 2018, the DHC entered four orders of disbarment. One lawyer misappropriated entrusted funds and committed other trust account violations. One lawyer was convicted of taking indecent liberties with a child, a felony in violation of N.C. Gen. Stat. § 14-202.1. One lawyer embezzled entrusted funds, committed other trust account violations, did not respond to the Grievance Committee, neglected and did not communicate with clients, did not refund unearned fees, and engaged in conduct prejudicial to the administration of justice> One lawyer abandoned clients, collected fees without doing the work for which he was paid, misrepresented his services, engaged in conduct involving dishonesty, revealed confidential client information, split fees without his clients' knowledge or permission, and engaged in conduct prejudicial to the administration of justice.

In 2018, the DHC imposed two active suspensions, eleven suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 15 suspensions entirely stayed upon the lawyer's compliance with various conditions. The OOC filed show cause petitions against three lawyers. In three cases, the DHC activated the suspension imposed by the order of discipline. The DHC reprimanded six lawyers. One lawyer was transferred to disability inactive status by the DHC. The DHC entered orders of interim suspension against three lawyers while their disciplinary proceedings are pending.

2. Petitions for Stay and for Reinstatement

In 2018, the DHC entered six orders staying portions of disciplinary suspensions for six lawyers who had served portions of the suspensions. Two lawyers were reinstated from disability inactive status.

Actions Before the State Bar Council

1. Tenders of Surrender of License

In 2018, three lawyers surrendered their law licenses to the State Bar Council and were disbarred. One lawyer pled guilty and was convicted in federal and state court to (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. One lawyer pled guilty in federal court to the felony offense

of receipt of child pornography. One lawyer misappropriated entrusted funds and made misrepresentations to a client and to the Grievance Committee. Three lawyers surrendered their law licenses and were disbarred by the Council during 2017.

2. Reinstatement Proceedings

The Council did not consider any reinstatement petitions in 2018.

Actions Before the Secretary

The Secretary receives reinstatement petitions from lawyers whose licenses are suspended for disciplinary violations and enters reinstatement orders in uncontested cases. Contested cases are referred to the DHC for trial.

Two suspended lawyers filed reinstatement petitions with the Secretary in 2018. The Secretary reinstated one lawyer. The other lawyer's petition was withdrawn because the lawyer had been reinstated by a previous order of the DHC.

Actions Before the State Trial Courts

1. Judicial Disbarments

In 2018, seven lawyers were disbarred by the Wake County Superior Court. Four lawyers misappropriated entrusted funds. One lawyer practiced law while his license was suspended, did not refund an unearned fee, knowingly made false misrepresentations to his client, to a tribunal and to the Grievance Committee, violated trust accounting rules, obtained property by false pretenses, and engaged in conduct prejudicial to the administration of justice. One lawyer was convicted of obstruction of justice, willful failure to discharge duties, obtaining property by false pretenses, and aiding and abetting obtaining property by false pretenses. One lawyer installed a video camera in the ladies room of his law office to secretly record people.

2. Injunction Proceedings

During 2018, the OOC obtained injunctions prohibiting six lawyers from handling entrusted funds, compared with 13 such injunctions in 2017. The OOC also obtained an injunction prohibiting one lawyer from practicing law.

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

In 2018, the OOC petitioned the courts to appoint trustees to wind down the law practices of 12 lawyers. The license of one lawyer was suspended by the court, two lawyers suffered from conditions that made them unavailable to clients, one lawyer was medically disabled, and eight lawyers were deceased. The OOC filed 20 trustee petitions in 2017.

4. Other Discipline and Disability Cases in the State Trial Courts

One lawyer was suspended by the Lincoln County Superior Court. The court concluded that he did not comply with a consent interim order and recovery program.

The Pitt County Superior Court suspended one lawyer for two years and provided that the lawyer could petition for a stay after serving six months of the suspension. The court had ordered the lawyer to show cause why he should not be held in criminal contempt and why he should not be disciplined for violating the Rules of Professional Conduct. The show cause order alleged that the lawyer filed a document that showed disregard for the dignity of the court, demonstrated undignified and discourteous conduct that was degrading to the court and that bred disrespect for the court and the legal profession, and made false statements to the court. The court acquitted him on the contempt charges but found his conduct violated the Rules of Professional Conduct. The lawyer appealed. The Court of Appeals granted his petition for writ of *supersedeas*. The appeal is pending.

The Wake County Superior Court transferred one lawyer to disability inactive status. The lawyer's appeal is pending.

The Martin County Superior Court suspended one lawyer. The court concluded that the lawyer is disabled by a condition that renders him unavailable to perform legal services for his clients.

The Wake County Superior Court lifted an injunction that had prohibited a lawyer from practicing law because he did not provide information requested by the Grievance Committee.

The Wake County Superior Court censured and held one lawyer in contempt for twice violating the court's injunction that prohibited him from handling entrusted funds and that required him to produce financial records to the State Bar.

The Wake County Superior Court censured one lawyer for handling entrusted funds and failing to produce records in violation of an injunction entered in 2016.

5. Miscellaneous

As usual, in 2018 the State Bar was a party to numerous actions in the State courts. The OOC represented the State Bar in many of these actions. In six cases, the State Bar was represented by the Attorney General. In one case, the State Bar was represented by private outside counsel.

At the end of 2018, the State Bar had three cases pending in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

During 2018, the OOC filed five motions in Superior Court for permission to disburse funds in the trust accounts of suspended or disbarred lawyers. The OOC attended seven hearings on motions to disburse or escheat, obtained nine orders directing the disbursement of entrusted funds totaling \$288,100.38, and closed eight files that did not require further action.

In 2018, the State Bar was also a party to the following cases in state trial courts:

Capitol Broadcasting Company, Inc. v. Disciplinary Hearing Commission (Wake County Superior Court). WRAL-TV filed this lawsuit against the DHC on January 12, 2015 challenging the DHC's decision not to allow live streaming of the trial in *North Carolina State Bar v. Mumma* and seeking an award of its expenses in bringing the action. Prior to a hearing on WRAL's motion for temporary restraining order, the parties reached a resolution of the dispute but the case is still pending. The court has not addressed the plaintiff's prayer for an award of attorney fees. The Attorney General represents the State Bar.

Lena Watts-Robinson v. North Carolina State Bar and Disciplinary Hearing Commission (Wake County Superior Court). Watts-Robinson was disbarred by the DHC on December 4, 2014. On December 1, 2017, she filed a lawsuit against the State Bar and the DHC alleging negligent misrepresentation and negligent infliction of emotional distress, asserting that the State Bar was negligent in its argument before the DHC and that the DHC was negligent in its order of discipline. On June 14, 2018, Watts-Robinson filed a notice of voluntary dismissal without prejudice. The OOC represented the State Bar and the Attorney General represented the DHC.

Richard Polidi v. Colon Willoughby et al (Wake County Superior Court). Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. He filed this action in July 2017 against the State Bar's counsel in her official and individual capacities, against an officer of the State Bar in his official and individual capacities, and against many others. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served the State Bar defendants.

Richard Polidi v. Carmen Bannon (Wake County Superior Court). Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. In July 2017, he filed this action against a State Bar deputy counsel in her official and individual capacities. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served the defendant.

Eugene Boyce v. North Carolina State Bar (Wake County Superior Court). Boyce alleged that on an unnamed date, he filed a grievance with the State Bar against now Governor of North Carolina Roy Cooper for conduct that allegedly occurred in 2000 when Cooper was a political candidate running against Boyce's son to become Attorney General of North Carolina. Boyce sought declaratory judgments that (1) the State Bar has a conflict in handling the grievance because the Attorney General represents the State Bar in various lawsuits and (2) the State Bar is obliged by law to refer the grievance to the courts for investigation and disciplinary action. He also sought an award of costs. In May 2016, the trial court granted the State Bar's motion to dismiss. Boyce appealed to the North Carolina Court of Appeals. The Court of Appeals affirmed the trial court's conclusion that Boyce does not have standing to bring his claim against the State Bar. The Court of Appeals also held that Boyce does have standing to seek a declaratory judgment that the Superior Court has concurrent jurisdiction over attorney discipline and remanded to the trial court for further proceedings. On remand, the trial court held that only the first claim for relief, seeking a declaratory judgment "[t]hat concurrent jurisdiction of several types exists as to resolution of attorney discipline and misconduct issues," had been remanded. The trial court entered a declaratory judgment that the Wake County Superior Court and the North Carolina State Bar have concurrent jurisdiction over professional misconduct and discipline of attorneys. The trial court held that no issues of fact or law remain with regard to the second and third claims for relief. The trial court held that Boyce's only remaining

claim is for an award of costs and, if Boyce files a motion for award of costs, the court will rule on it. The State Bar was represented by Parker Poe Adams and Bernstein in the original trial court proceedings, was represented by the OOC on appeal and on remand.

James Ronald Peggs v. North Carolina State Bar (NC Industrial Commission). This is a purported tort claim against numerous defendants. Peggs identified himself as trustee of a purported trust formed in an effort to defeat a foreclosure. Peggs alleged that the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. He alleged that the clerk of court and lawyers for the trustee were agents of the State Bar but alleged no facts that could sustain that theory. Peggs alleged no acts or omissions by the State Bar. The deputy commissioner dismissed the complaint in January 2017. The Full Commission affirmed in September 2017. Peggs appealed but did not perfect the appeal. The Full Commission denied the State Bar's motion to dismiss the appeal but allowed the State Bar's motion to dismiss the tort claim. The Attorney General represented the State Bar.

Ballentine International Express Trust/Trustee Board by Trustee v. State of North Carolina et al (NC Industrial Commission). This is a purported tort claim against numerous defendants. Ballentine is a purported trust formed in an effort to defeat a foreclosure. Ballentine alleges the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. Ballentine alleges that two defendants are agents of the State Bar because they are licensed to practice law in North Carolina but alleges no facts that could sustain that theory. Ballentine alleges no acts or omissions by the State Bar. The deputy commissioner dismissed all claims against all defendants on his own motion. The Full Commission held that the deputy commissioner lacked authority to dismiss the claim against the State Bar on his own motion and remanded to the deputy commissioner. Meanwhile, the petitioner appealed dismissal of the claims against the other defendants to the North Carolina Court of Appeals. The Court of Appeals dismissed the appeal. The State Bar's motion to dismiss is pending in the Industrial Commission. The Attorney General represents the State Bar.

HGGLBT International Trust v. State of North Carolina et al (NC Industrial Commission). This is a purported tort claim against numerous defendants. HGGLBT is a purported trust formed in an effort to defeat a foreclosure. HGGLBT alleges the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. HGGLBT alleges that another defendant is licensed to practice law in North Carolina and is therefore an agent of the State Bar but alleges no facts that could sustain that theory. HGGLBT alleges no acts or omissions by the State Bar. The deputy commissioner dismissed the claim against the State Bar. HGGLBT appealed to the Full Commission but did not file a brief. The State Bar filed its brief. The Full Commission held oral argument on October 18. The Attorney General represents the State Bar.

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

Bayview Loan Servicing, LLC v. Donald H. Bumgardner, et al (Gaston County Superior Court). Bayview alleged that it is the assignee and the holder of a note and a deed of trust on real property previously owned by Bumgardner. Bumgardner was disbarred in 2015 for stealing entrusted funds. Bayview alleged that it foreclosed, was the high bidder at the foreclosure sale, and became the record owner of the property. Bayview sought a declaratory judgment that a defect in the notice of foreclosure does not affect its ownership interest in the property and that all other liens against the Bumgardners do not apply to the property. Bayview sued the State Bar because the Client Security Fund obtained two judgments against Bumgardner totaling approximately \$123,000 for funds paid to Bumgardner's victims after the foreclosure. Bayview did not seek affirmative recovery from the State Bar. The court entered judgment for Bayview in October 2018. The OOC represented the State Bar.

State v. Wallace Bradsher, 17 CRS 1878 (Wake County). Defendant Bradsher issued a subpoena for the State Bar counsel to testify in his criminal trial. The Office of Counsel filed a motion to quash based on grounds of confidentiality and privilege. The Superior Court granted the motion to quash. The OOC represented the State Bar counsel.

Actions Before the State Appellate Courts

The OOC appeared in six appellate cases in 2018.

NCSB v. Dawn Ely - 16 DHC 1

In August 2016, the DHC suspended Dawn Ely of Georgia and North Carolina for five years because she offered to provide legal services while her license was administratively suspended. The order of discipline provided that, after serving two years of the suspension, she could seek a stay of the balance upon demonstrating compliance with numerous conditions. In February 2018, the Court of Appeals affirmed in a published opinion.

Scott S. Dorman – 16 DHC 26

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

NCSB v. Christopher Livingston - 15 DHC 15

In July 2016, the DHC suspended Livingston, of Bladen County, for five years. The order provided that after he serves two years of the suspension, Livingston can seek a stay of the balance upon demonstrating compliance with numerous conditions. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. The Court of Appeals affirmed in a published opinion. The Supreme Court granted the State Bar's motion to dismiss Livingston's appeal and denied discretionary review.

Robert N. Weckworth, Jr. – 16 DHC 22

In October 2017, the DHC censured Robert Weckworth of Greensboro. The DHC concluded that Weckworth communicated with a represented adverse party and had improper *ex parte* communications with a judge. Weckworth appealed. All briefs have been filed.

In re Phillip Entzminger (Pitt County Superior Court). The Pitt County Superior Court ordered Entzminger, an assistant district attorney, to show cause why he should not be held in criminal contempt and why he should not be disciplined for violating the Rules of Professional Conduct. The show cause order alleged that Entzminger filed a document showing disregard for the dignity of the court, demonstrated undignified and discourteous conduct that was degrading to the court and that bred disrespect for the court and the legal profession, and made false statements to the court. The court appointed the State Bar to prosecute. In April 2018, the court acquitted Entzminger of contempt but concluded that he violated the Rules of Professional Conduct. The court suspended Entzminger for two years with the possibility of a stay after he serves six months active suspension. Entzminger appealed. The Court of Appeals granted his petition for writ of *supersedeas*. The State Bar’s brief is due February 4.

In re Tony Sami Botros, 18 R 439 (Wake County). The Wake County Superior Court ordered Botros to show cause why he should not be disciplined or transferred to disability inactive status due to his inability to effectively represent clients in court. The court appointed the State Bar to prosecute. In June 2018, the court entered an order transferring Botros to disability inactive status. Botros appealed. All briefs have been filed.

Actions Before the Federal Courts

Capital Associated Industries, Inc. v. Josh Stein in his capacity as Attorney General of the State of North Carolina; Nancy Lorrin Freeman, in her official capacity as District Attorney for the 10th Prosecutorial District of the State of North Carolina; and J. Douglas Henderson, in his official capacity as District Attorney for the 18th Prosecutorial of the State of North Carolina (US District Court, MDNC). CAI is a trade association consisting of small and medium-sized businesses. CAI assists its members with personnel management issues. CAI wants to hire lawyers to provide legal advice and legal services to its members. The State Bar’s Ethics Committee issued an ethics advisory opining that doing so would violate North Carolina’s statutory prohibitions against the unauthorized practice of law. CAI sought a declaration that N.C. Gen. Stat. §§ 84-4 and 84-5 violate the United States and North Carolina constitutions as applied to it and sought an injunction prohibiting the original defendants from enforcing the statutes against it. CAI did not seek damages but did seek attorney fees, “disbursements” and costs. The court allowed the State Bar to intervene. In September 2017, the court granted summary judgment in favor of the State Bar on all claims. CAI appealed to the Fourth Circuit Court of Appeals. Oral argument was held on December 13, 2018. Van Laningham Duncan represents the State Bar.

Christopher Livingston v. North Carolina State Bar et al (US District Court for the Eastern District of NC). Livingston alleges that he was required to pay mandatory dues to the 13th Judicial District Bar, that such dues were unnecessary, and that the dues were used for purposes with which he disagreed. He purports to assert claims under 42 U.S.C. §§ 1983 and 1988 for injunctive relief and claims for actual and punitive damages for alleged violations of the Fifth and Fourteenth Amendments to the United States Constitution and the Law-of-the-Land and Equal Protection clauses of the North Carolina Constitution. In April 2018, Livingston served an amended complaint alleging that, in 15 DHC 15, he was selectively prosecuted resulting in the suspension of his law license for 5 years. The amended complaint includes as

new defendants a witness in the DHC case, the prosecutor in the DHC case, and a former State Bar president. The caption of the amended complaint does not include the district bar as a defendant. Livingston’s motion to amend the complaint a second time and defendants’ motions to dismiss all claims are pending. The OOC.

Valerie Arroyo v. Daniel Zamora, Chad Diamond, North Carolina State Bar Association et al (U.S. District Court, WDNC). Arroyo filed a grievance that was dismissed. Her petition for contested case hearing at the Office of Administrative Hearings was dismissed. She filed this action against two lawyers, “the North Carolina State Bar Association,” the Mecklenburg County Clerk of Court, the Judicial Standards Commission, the Ethics Commission and NCDOJ. The complaint was dismissed as frivolous before the State Bar learned it had been filed. Arroyo’s motions for reconsideration and to vacate, alter and amend the judgment were denied. The court entered a gatekeeper order against Arroyo. In September 2018, Arroyo gave notice of direct appeal to the United States Supreme Court. Her appeal does not appear on the Supreme Court’s docket.

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

COUNCIL DISBARMENTS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
James Shelton	18BCS1	04/20/2018
Trevor Ivan Huck	18BCS2	10/20/2018
Fletcher L. Hartsell, Jr.	18BCS3	10/20/2018

JUDICIAL DISBARMENTS

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Robert F. Garner	18CVS001669	02/22/2018
Junius A. Crumpler, III	18M1163	03/26/2018
David H. Caffey	18CVS3872	04/20/2018
Lawrence Wittenberg	17CVS4492	07/13/2018
Wallace W. Bradsher, Jr.	17CRS1878	06/25/2018
A. Scott Hamilton	17CVS3828	10/09/2018
Andrew Craig Jackson, Jr.	18CV013536	10/28/2018

JUDICIAL DISCIPLINE & DISABILITY

Lawyer	File No.	Discipline/Disability
Blair MacFarland Pettis	17CVS89	Suspended until further order of the court
Philip Entzminger	17CRS1930	2-year suspension; possible stay after 6 months (appealed)
Tony Sami Botros	18R439	Disability Inactive (appealed)
David E. Gurganus	18M48	Suspended
Charles Gurley	17CVS5625	Practice injunction (issued in Nov. 2017) lifted
Charles L. Morgan, Jr.	18CVS02796 Show Cause	Censure
Scott H. Shelton	16CVS13732 Show Cause	Censure

RECIPROCAL DISCIPLINE

Lawyer	File No.	Discipline
J. Ronald Denman	16G1286	30-day suspension
Philip M. Kleinsmith	17G1139	Disbarred
George Blakey	15G1216	Reprimand

TRANSFERS TO DISABILITY INACTIVE STATUS

Lawyer	File No.	Date of Transfer
Powell W. Glidewell IV	18G0047	02/06/2018
Lori Cramer	17G0469	03/30/2018
Susan Franklin	18D1	05/17/2018

BEFORE THE DISCIPLINARY HEARING COMMISSION

Completed Discipline & Disability Cases

Lawyer	File No.	Outcome
Carson W. Freeman	17DHC35	Disbarred (hearing)
Matthew A. Smith	18DHC1	Disbarred (default/Phase 2 hearing)

Lawyer	File No.	Outcome
Paige C. Cabe	18DHC2	Disbarred (default/no hearing)
Alvaro De La Calle	18DHC29	Disbarred (consent)
Arnold O. Jones, II	18DHC3	5-year suspension (consent)
Thomas S. Hicks	18DHC9	3-year suspension (consent)
Michael J. Parker	17DHC20	5-year suspension; possible stay after 2.5 years (consent)
Julia A. Parker	17DHC21	5-year suspension; possible stay after 18 months (consent)
Cindy Huntsberry	18DHC10	5-year suspension; possible stay after 1 year (consent)
Jeffrey W. Ellingworth	18DHC4	4-year suspension; possible stay after 2 years (default/no hearing)
Mark V. Gray	17DHC31	4-year suspension; possible stay after 18 months (consent)
Gladys Nicole Clayton	17DHC25	4-year suspension; possible stay after 6 months (consent)
Scott H. Shelton	17DHC1	3-year suspension; possible stay after 1 year (consent)
Christopher T. Watkins	18DHC32	3-year suspension; possible stay after 6 months (consent)
Joseph H. Forbes, Jr.	17DHC19	3-year suspension; possible stay after 6 months (consent)
Frederick J. Owens	17DHC17	3-year suspension; possible stay after 30 days (default)
Jeffrey D. Smith	18DHC26	2-year suspension; possible stay after 1 year (consent)

Lawyer	File No.	Outcome
Jeffrey G. Dalrymple	18DHC8	3-year suspension; stayed 3 years (consent)
James N. Jorgensen	18DHC27	3-year suspension; stayed 3 years (consent)
Kevin M. Kennedy	17DHC33	2-year suspension; stayed 3 years (consent)
Bryon M. Smith	17DHC28	2-year suspension; stayed 2 years (consent)
Amy E. Allred	16DHC2	2-year suspension; stayed 2 years (consent)
Lisa A. Page	18DHC12	2-year suspension; stayed 2 years (consent)
Philip S. Adkins	17DHC32	2-year suspension; stayed 2 years (consent)
Daniel Reid Fulkerson	18DHC21	2-year suspension; stayed 2 years (consent)
William Devin Webb	18DHC17	2-year suspension; stayed 2 years (consent)
Kenneth R. Jones	18DHC30	2-year suspension; stayed 2 years (consent)
Brent F. King	17DHC8	2-year suspension; stayed 2 years (consent)
Joseph Eric Altman	18DHC15	2-year suspension; stayed 2 years (consent)
Tania Love Leon	18DHC5	2-year suspension; stayed 2 years (consent)
Jesse W. Jones	16DHC17	1-year suspension; stayed 3 years (consent)
Jonathan Holmes Hunt	18DHC37	1-year suspension; stayed 3 years (consent)
Jeffrey S. Miller	18DHC13	Reprimand (consent)
Richard B. Schultz	17DHC24	Reprimand (consent)
Jerry B. Clayton Robert W. Myrick Robert D. McClanahan Ronald G. Coulter	17DHC25	Reprimands (consent)
Wendelyn R. Harris	18DHC14D	disability inactive (hearing)

Lawyer	File No.	Outcome
Matthew A. Smith	18DHC1	interim suspension (consent) January 2018 disbarred Sept. 2018
David R. Payne	18DHC18	interim suspension (consent) March 2018
Steven P. MacGilvray	18DHC48	interim suspension (consent) November 2018

Completed Show Cause Hearings

Lawyer	File No.	Outcome
David A. Lloyd	14DHC15 & 14DHC15SC	3-year suspension activated; (hearing) January 2018
Jeffrey D. Smith	15DHC27 & 15DHCSC	2-year suspension activated; possible stay after 1 year (hearing) March 2018
Robert M. Donlon	17DHC22 & 17DHC22SC	1-year suspension activated; possible stay after 6 months (consent) October 2018

Completed Reinstatement Cases

Lawyer	File No.	Outcome
Shaun L. Hayes	16DHC28	Reinstated by DHC; remaining suspension stayed (consent) January 2018
R. Kelly Calloway, Jr.	16DHC3	Reinstatement denied by DHC (hearing) April 2018 Reinstated by DHC; remaining suspension stayed (consent) August 2018
Joan Elizabeth Spradlin	17RD1	Reinstated from disability inactive status by DHC (hearing) March 2018

Lawyer	File No.	Outcome
Tracey Cline	12DHC22 & 17BSR8	Reinstatement denied by DHC (hearing) April 2018
		Reinstated by DHC; remaining suspension stayed (hearing) August 2018
John M. Holmes, Jr.	16DHC5	Reinstated by DHC; remaining suspension stayed (consent) March 2018
Sean David Soboleski	15DHC52A & 15DHC52R	Reinstated by DHC; remaining suspension stayed (consent) April 2018
Joel M. Bresler	18BSR1	Reinstated by Secretary (consent) April 2018
Heather Anne Shade	18RD1	Reinstated from disability inactive status by DHC (consent) July 2018

Pending Discipline & Disability Cases

Lawyer	File No.	Hearing Date
Bradley R. Lamb	07DHC28	Not scheduled (stayed)
Robert Melville, Jr.	13DHC9	Not scheduled (stayed)
Michael J. Anderson	15DHC47/15DHC47D	Not scheduled (stayed)
Joseph Lee Levinson	16DHC11	Not scheduled (stayed)
Craig M. Blitzer	17DHC23	Interim suspension
Gavin A. Brown	17DHC29	Not scheduled
Larry G. Hoyle	18DHC6	Jan. 31 - Feb. 1, 2019
Robert R. Schoch	18DHC7	Not scheduled
James Goard	18DHC11	March 7-8, 2019
Wendelyn R. Harris	18DHC14/18DHC14D	Not scheduled (stayed)
George L. Collins	18DHC16	Jan. 11, 2019
Frank Cassiano	18DHC19	Not scheduled
Michael H. Griffin	18DHC20	Not scheduled
Bernell Daniel-Weeks	18DHC23	Not scheduled
Giles Cameron Byrd	18DHC24	April 4, 2019
Venus Yvette Springs	18DHC25	March 8, 2019
Christopher A. Stella	18DHC28	Not scheduled
Mary March Exum	18DHC31	Feb. 28 - March 1, 2019
Ryan Shoaf	18DHC33	April 11-12, 2019
Kenneth B. Holmes	18DHC34	April 3-5, 2019
Richard Batts	18DHC35	Feb. 22, 2019
Robert Lewis	18DHC36	June 28, 2019

Gary Leigh	18DHC38	Not scheduled
John Lafferty	18DHC39	April 16-17, 2019
Keith Booker	18DHC40	Not scheduled
Patrick Megaro	18DHC41	August 7 – 9, 2019
Meredith Ezzell	18DHC42	April 8 – 12, 2019
Clinton Moore	18DHC43	Not scheduled
John Hanzel	18DHC44	Not scheduled
Travis Simpson	18DHC45	Not scheduled
Erica Erickson	18DHC46	Not scheduled
Susan Lynch	18DHC47	Not scheduled
Steven P. MacGilvray	18DHC48	Interim suspension
Dennis Sullivan, Jr.	18DHC49	Not scheduled
Carl Douglas Lee	19DHC1	Not scheduled
Jerry Braswell	19DHC2	Not scheduled

Pending Reinstatement Cases

Lawyer	File No.	Hearing Date
Theodore G. Hale	04DHC26/18BCR1	Feb. 9, 2019

Pending Show Cause Hearings

Lawyer	File No.	Hearing Date
Darryl G. Smith	16DHC28	Not scheduled
Katherine Pekman	15DHC41	Not scheduled

BEFORE THE STATE TRIAL COURTS

Trustees Appointed in 2018

Lawyer	Reason Trustee Sought
Douglas M. Strout	Deceased
James E. Snyder	Unavailable to clients
Susan R. Franklin	Unavailable to clients
Raymond Mason Taylor	Deceased
Calvin Columbus Craig	Medically disabled
Chester E. Whittle	Deceased
Paul Vancil	Deceased
Donald Ray House	Deceased
David E. Gurganus	Suspended
Christopher Allen White	Deceased
Rhonda Register Moorefield	Deceased
Thomas H. Stark	Deceased

TROs and Preliminary Injunctions Obtained in 2018

Lawyer	Date of Injunction
Martin Musinguzi, Charlotte	January 8, 2018
Robert F. Garner, Greensboro	February 8, 2018
Charles L. Morgan, Jr., Charlotte	March 6, 2018
David H. Caffey, Winston-Salem	March 26, 2018
Mary March Exum, Asheville	June 13, 2018
David E. Gurganus, Williamston	September 10, 2018

BEFORE THE GRIEVANCE COMMITTEE

Totals for 2018

Total Grievance Files Opened – 1,252
Total Files Considered by Committee – 1,250

Dismissals – 948
Files Dismissed & Retained – 25
Files Abated – 7
Files referred to the Lawyers Assistance Program – 3
Files referred to the Trust Accounting Compliance Program – 12
Files Dismissed with Letters of Caution – 16
Files Dismissed with Letters of Warning – 52
Files issued Admonitions – 23
Files issued Reprimands – 20
Files issued Censures – 21
Files issued Reciprocal Discipline – 3
Files referred to DHC – 120

GRIEVANCE COMMITTEE MEETING: JANUARY 25, 2018

225 files were dismissed
12 files were dismissed and retained
0 files were abated
3 files were continued
0 lawyers were referred to the Lawyers Assistance Program
3 lawyers were referred to the Trust Accounting Compliance Program
2 lawyers received reciprocal discipline
5 lawyers received letters of caution
11 lawyers received letters of warning
7 lawyers received admonitions
5 lawyers received reprimands
2 lawyers received censures
16 lawyers were referred to the Disciplinary Hearing Commission

GRIEVANCE COMMITTEE MEETING: APRIL 19, 2018

- 187 files were dismissed
- 3 files were dismissed and retained
- 0 files were abated
- 8 files were continued
- 3 lawyers were referred to the Trust Accounting Compliance Program
- 2 lawyers received letters of caution
- 10 lawyers received letters of warning
- 7 lawyers received admonitions
- 7 lawyers received reprimands
- 12 lawyers received censures
- 10 lawyers were referred to the Disciplinary Hearing Commission

GRIEVANCE COMMITTEE MEETING: JULY 26, 2018

- 240 files were dismissed
- 2 files were dismissed and retained
- 6 files were abated
- 6 files were continued
- 3 lawyers were referred to the Lawyers Assistance Program
- 4 lawyers were referred to the Trust Accounting Compliance Program
- 1 lawyer received reciprocal discipline
- 2 lawyers received letters of caution
- 14 lawyers received letters of warning
- 4 lawyers received admonitions
- 3 lawyers received reprimands
- 6 lawyers received censures
- 7 lawyers were referred to the Disciplinary Hearing Commission

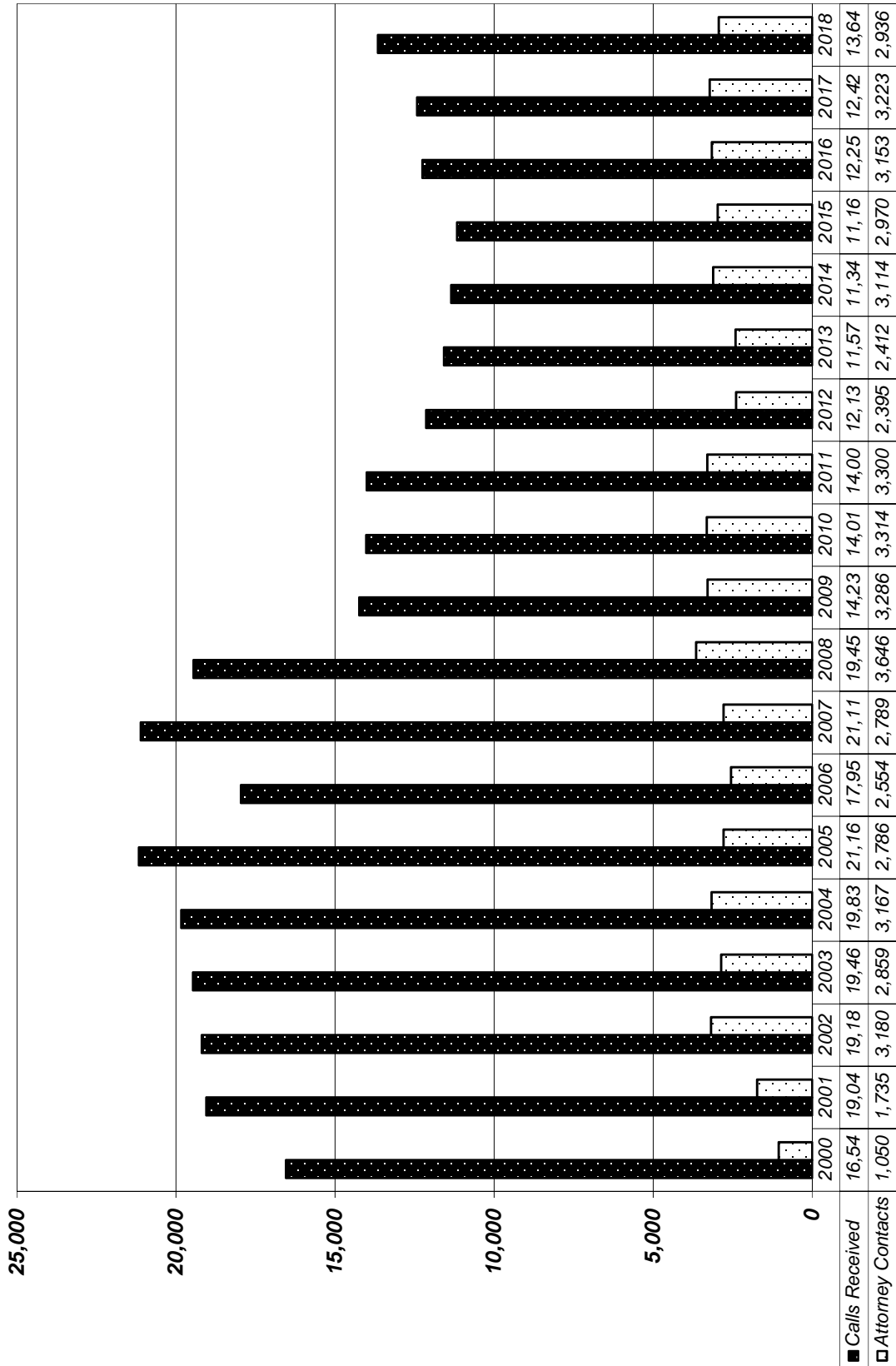
GRIEVANCE COMMITTEE MEETING: OCTOBER 25, 2018

- 230 files were dismissed
- 13 files were dismissed and retained
- 0 files were abated
- 5 files were continued
- 1 lawyer was referred to the Lawyers Assistance Program
- 4 lawyers were referred to the Trust Accounting Compliance Program
- 0 lawyers received reciprocal discipline
- 7 lawyers received letters of caution
- 16 lawyers received letters of warning
- 4 lawyers received admonitions
- 6 lawyers received reprimands
- 1 lawyer received a censure
- 9 lawyers were referred to the Disciplinary Hearing Commission

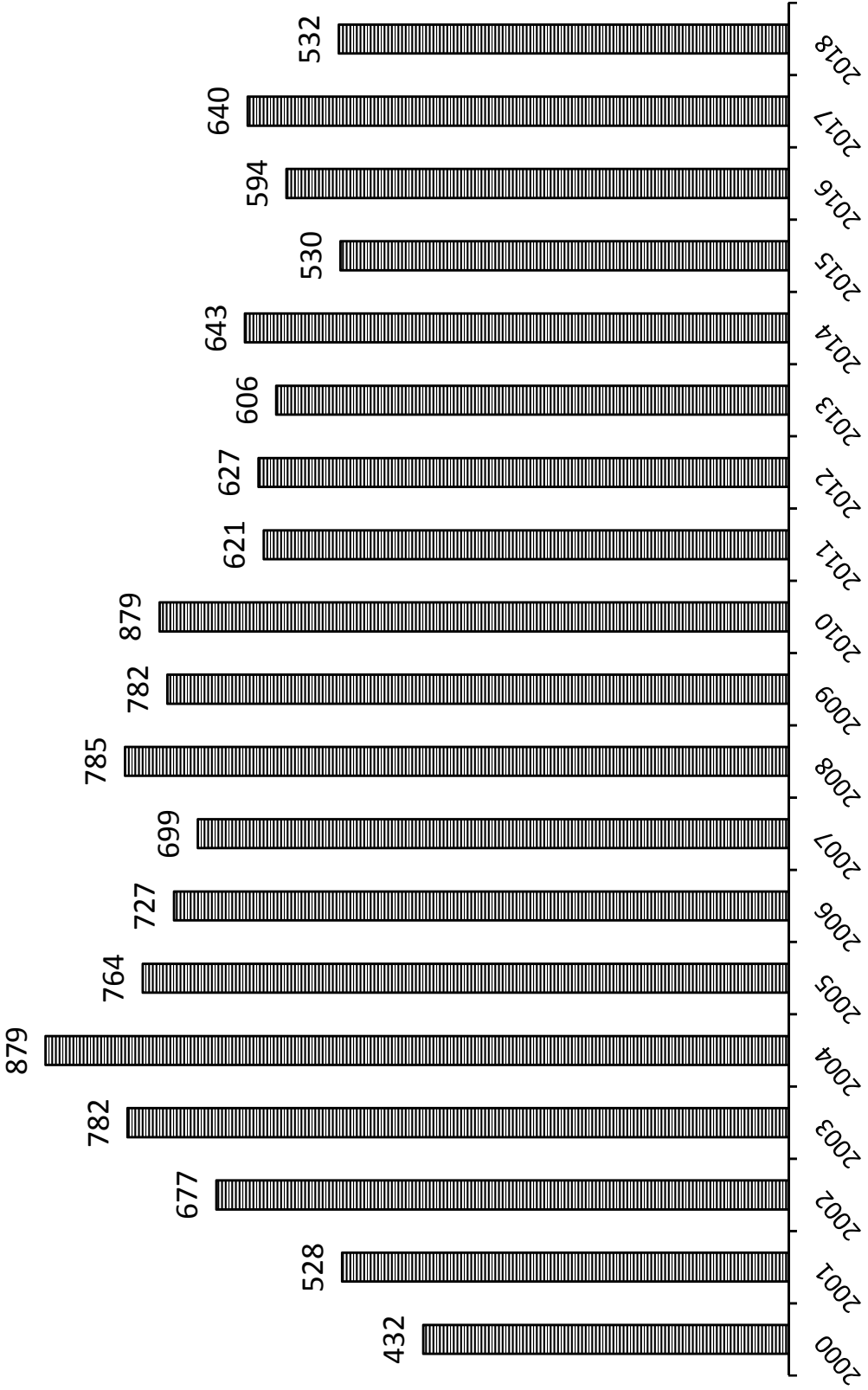
ATTORNEY CLIENT ASSISTANCE PROGRAM

Calls Received and Attorney Contacts

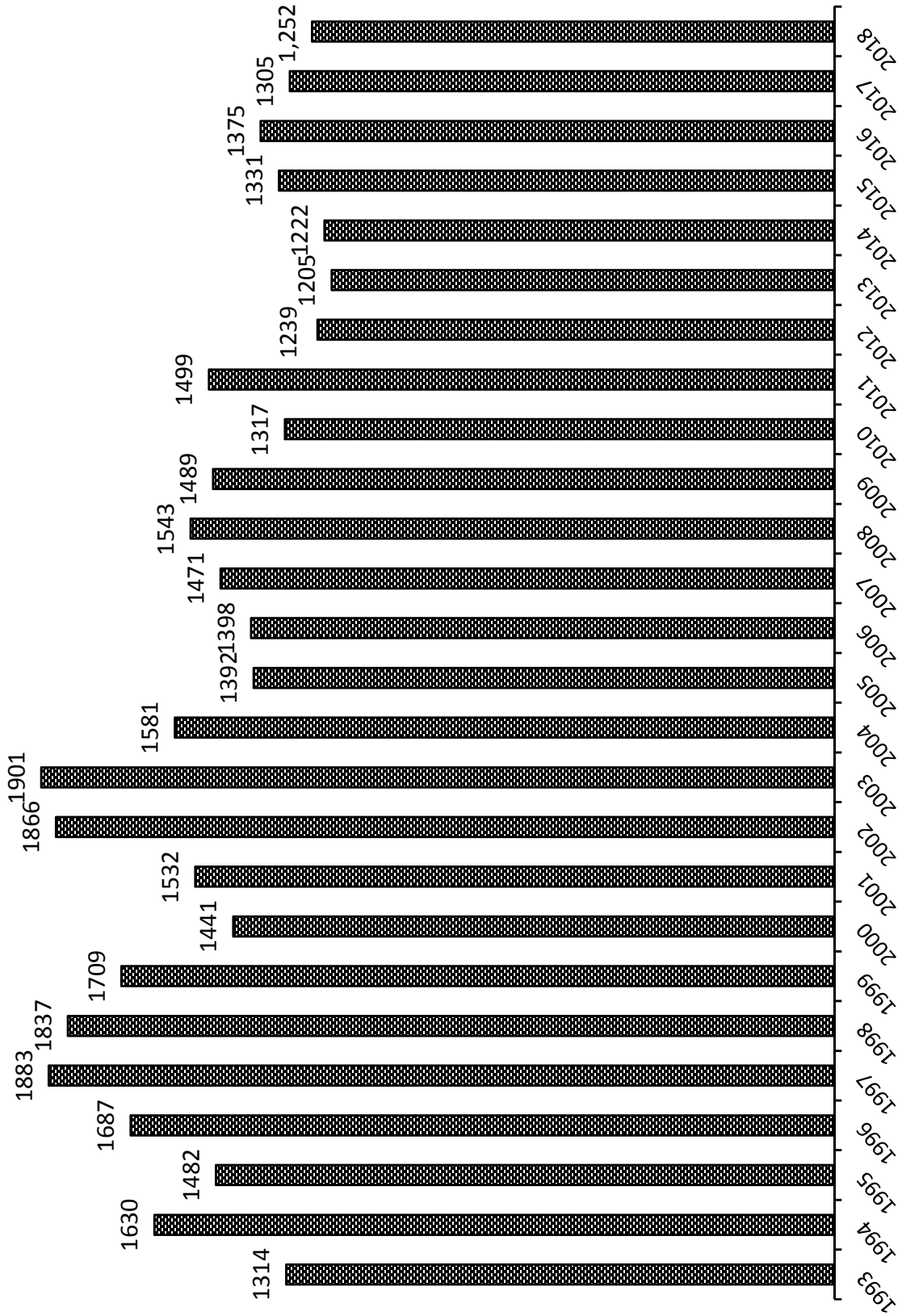
(January - December)



Fee Dispute Resolution Petitions Filed



Grievances Filed Annually



Surrenders and Disbarments (DHC, Council and Courts)

