



The North Carolina State Bar  
Office of Counsel

2019  
Annual  
Report

## ***Office of Counsel Staff***

### **LAWYERS**

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Katherine E. Jean, Counsel	Ext. 276
Margaret T. Cloutier, Sr. Deputy Counsel	Ext. 239
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
J. Cameron Lee, Deputy Counsel	Ext. 293
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**

Heather Pattle, Administrator	Ext. 227
Todd Bascom, Paralegal	Ext. 254
Lori Brooks, Administrative Assistant	Ext. 232
Becky Carroll, Paralegal	Ext. 234
Mary Lee, Trust Account Paralegal	Ext. 251
Jeffrey Lundgren, 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**

Joe Commisso, Director of Investigations	Ext. 200
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
Fred Patton, Investigator	Ext. 266
Randy Ross, Investigator (Client Security Fund)	Ext. 201
Paul Sugrue, Investigator	Ext. 284
Wayne Truax, Investigator	Ext. 292

**INVESTIGATIONS ADMINISTRATIVE STAFF**

Julie Ferrer, Investigative Clerk	Ext. 355
Dawn Patton, Administrative Assistant	Ext. 278
Sonja Puryear, Investigative Clerk	Ext. 203
Chris Woods, Investigative Assistant	Ext. 222

**ATTORNEY/CLIENT ASSISTANCE PROGRAM STAFF**

Lee A. Ramos, Director	Ext. 277
Kerri Bianchi, Fee Dispute Facilitator	Ext. 228
Diane Melching, Administrative Assistant	Ext. 287
Courtney Pope, Public Liaison	Ext. 260
Sandra Saxton, Intake Coordinator	Ext. 264
Kimberly Waddell, Public Liaison	Ext. 297

***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 Accounting 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, disbarred and missing lawyers and obtains court orders to disburse funds in their trust accounts. 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 seventeen 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, an intake coordinator 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.

**2019 ANNUAL REPORT  
OFFICE OF COUNSEL  
THE NORTH CAROLINA STATE BAR**

**Attorney Client Assistance Program**

The Attorney Client Assistance Program (“ACAP”) is comprised of six staff members: the director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator, an intake coordinator, two public liaisons, and one administrative assistant. During 2019, the staff responded to 9,629 calls from clients and other members of the public. The ACAP staff also responded to 3,001 letters from inmates and 6,751 email messages from clients and lawyers. The ACAP staff contacted 2,076 lawyers in attempts to resolve clients’ concerns.

The State Bar opened 555 fee dispute resolution files during 2019. All 555 fee dispute resolution files were assigned to two in-house facilitators.

**Authorized Practice Committee**

The Authorized Practice Committee opened 63 investigation files in 2019, compared to 82 investigations in 2018, 107 investigation files opened in 2017, 87 files in 2016, and 108 files in 2015. The committee resolved 73 files during 2019, compared to 91 files during 2018, 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 2019, four proposed plans were submitted for registration; one was registered. The OOC is reviewing the remaining three submissions. Two hundred forty-eight amendments were submitted for existing plans, two hundred forty-five of which were registered and three of which did not qualify for registration.

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 has negotiated a consent resolution.

**North Carolina State Bar v. Linh Quach (Wake County Superior Court).** In July 2018, the Executive Committee authorized the Office of Counsel to file a lawsuit against Linh Quach for injunctive relief. Quach is a Vietnamese woman who was receiving fees in exchange for helping immigrants file immigration petitions. Quach defaulted. The trial court entered a permanent injunction against her on February 27, 2019.

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-seven lawyers currently participate in the Trust Accounting Compliance Program. In 2019, seven lawyers successfully completed the program. In 2018, thirteen lawyers successfully completed the program. In 2017, nine lawyers successfully completed the program.

### **Grievance Committee Actions**

During 2019, the Grievance Committee opened 1,258 grievance files, compared with 1,252 files opened in 2018.

Also in 2019, the OOC reviewed three direct mail solicitation letters or other advertising materials. All involved minor violations of advertising ethics rules. The Grievance Committee opened three grievance files. The OOC reviewed three direct mail solicitation letters in 2018. It opened two 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 1,211 grievance files in 2019. Of those, 962 were dismissed. Twenty-eight files were dismissed and retained because the respondent lawyers had been disbarred. Two files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 82 percent of the grievance files considered by the committee. In addition to the grievance files that were dismissed outright in 2019, 15 files were dismissed with letters of caution and 61 were dismissed with letters of warning.

In 2019, the Grievance Committee issued admonitions in 37 files, reprimands in 31 files and censures in ten files. Forty-seven files involving 31 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 125 grievance files resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately ten percent of the grievances considered by the committee in 2019. The committee referred four lawyers to the Lawyer Assistance Program, and referred 14 lawyers to the Trust Accounting Compliance Program.

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

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 2019, the OOC completed a total of 36 disciplinary, reinstatement, show cause, and grievance noncompliance cases before the DHC, representing 62 files referred by the Grievance Committee. Of those, nine were resolved by hearing or default judgment and 27 were resolved by consent. In 2018, the office completed 50 such cases of which 13 were resolved by trial and 37 were resolved by consent.

### 1. Discipline and Disability Cases

In 2019, the DHC entered nine orders of disbarment. One lawyer, while suspended for mishandling entrusted funds and other misconduct in a separate DHC file, held herself out to the public and to former clients as able to practice law and collected legal fees for legal services. One lawyer, suspended in a separate DHC file, did not comply with conditions, abandoned two clients, did not return unearned fees, did not respond to the Grievance Committee, and did not participate in mandatory fee dispute resolution. One lawyer misappropriated entrusted funds, structured banking transactions to avoid IRS reporting, and neglected two clients' personal injury cases. One lawyer neglected and did not communicate with clients, collected excessive fees, engaged in conduct involving deceit and misrepresentation, and obtained property by false pretenses. One lawyer misappropriated entrusted funds. One lawyer committed notary fraud on multiple occasions, made misrepresentations to a court, and misled unrepresented parties. One lawyer pled guilty to misdemeanor larceny but acknowledged that he committed felony larceny. One lawyer charged an illegal or clearly excessive fee, misrepresented the services he would provide, engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, did not properly maintain and disburse fiduciary funds, embezzled, engaged in conduct prejudicial to the administration of justice, committed perjury, made a false statement of material fact to a tribunal, and made a false representation to the Grievance Committee.

In 2019, the DHC imposed two active suspensions, ten suspensions in which the lawyer could seek a stay after serving some period of active suspension, and six suspensions entirely stayed upon the lawyer's compliance with various conditions. The OOC filed show cause petitions against three lawyers. In one case, the DHC activated the suspension imposed by the order of discipline and in two cases, the stay was continued or extended. The DHC censured two lawyers and reprimanded three lawyers. The DHC entered interim suspensions of the law licenses of five lawyers while disciplinary proceedings are pending.

### 2. Petitions for Stay and for Reinstatement

In 2019, the DHC entered one order reinstating a lawyer from suspension, denied a stay of suspension for one lawyer, and denied reinstatement for two disbarred lawyers. Three disbarred lawyers withdrew petitions for reinstatement. Two lawyers were reinstated from disability inactive status.

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

### 1. Tenders of Surrender of License

In 2019, two lawyers surrendered their law licenses to the State Bar Council and were disbarred. One admitted that he misappropriated and converted to his own use funds totaling at least \$4,250 to which his law firm employer was entitled. One pled guilty to violating 18 U.S.C. § 1014, a felony. He knowingly made false statements for the purpose of influencing a financial institution with accounts insured by the FDIC in connection with a loan.

### 2. Reinstatement Proceedings

In 2019, the Council heard the reinstatement petition for one disbarred lawyer. The DHC had recommended denial of the petition. The lawyer had sex with a client, made false statements to a court and to the Grievance Committee, attempted to suborn perjury, was convicted of several criminal charges including communicating threats and obstruction of justice, intentionally disclosed client confidences, and engaged in a conflict of interest. At its October 25, 2019 meeting, the Council denied the petition for reinstatement. His appeal to the Court of Appeals is pending.

## **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 petitions for reinstatement are referred to the DHC for trial.

No lawyers filed reinstatement petitions with the Secretary in 2019.

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

### 1. Judicial Disbarments

In 2019, six lawyers were disbarred by the Wake County Superior Court. Three misappropriated funds. One had sex with two clients, disclosed confidential client information, charged excessive fees, did not act with diligence and did not communicate with multiple clients, made false statements to the State Bar, and did not respond to the Grievance Committee. One pled guilty to violating of Title 8, United States Code, Section 1324(a)(1)(A)(iv), a felony, by encouraging and inducing an alien to reside in the United States, with knowledge and in reckless disregard of the fact that such residence was unlawful. One was disbarred for refusing to comply with discovery requests and was jailed several times after being found in contempt of court.

### 2. Injunction Proceedings

During 2019, the OOC obtained injunctions prohibiting nineteen lawyers from handling entrusted funds, compared with six such injunctions in 2018.

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

In 2019, the OOC petitioned the courts to appoint trustees to wind down the law practices of 20 lawyers. One lawyer was appointed to a clerkship, three lawyers suffered from disabling conditions that made them unavailable to clients, two more lawyers were simply unavailable, two lawyers were disbarred, and twelve lawyers were deceased. The OOC filed 12 trustee petitions in 2018.

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

One lawyer was admonished by the Pitt County Superior Court for knowingly failing to correct a false statement to a tribunal. One lawyer was held in contempt and censured by the Wake County Superior Court pursuant to N.C. Gen. Stat. § 5A-12 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. One lawyer was censured by Wake County Superior Court by consent order pursuant N.C. Gen. Stat. § 5A-12 for handling entrusted funds and failing to produce records in violation of the court's injunction.

### 5. Miscellaneous

As usual, in 2019 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.

At the end of 2019, the State Bar did not have any pending cases in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

During 2019, the OOC filed six motions in Superior Court for permission to disburse or escheat funds in the trust accounts of suspended or disbarred lawyers. The OOC attended five hearings on motions to disburse or escheat, obtaining five orders directing the disbursement or escheatment of entrusted funds totaling \$48,083.82.

In 2019, 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.

**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 Carmen Bannon, State Bar deputy counsel, in her official and individual capacities. Polidi makes vague, generalized allegations relating to his decision to surrender his law license and consent to be disbarred. He has never served Bannon. If he does, the OOC will represent her.



**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 Colon Willoughby in his official and individual capacities, against Katherine Jean in her official and individual capacities, and against many others. It is unclear whether Polidi sued Colon Willoughby in his official capacity as the former elected district attorney of Wake County or in his official capacity as a State Bar councilor. Willoughby is now a State Bar officer but was not an officer when this lawsuit was filed. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served Willoughby or Jean. If he does, the OOC will represent them.

**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 contends that the clerk of court and a lawyer for the trustee were agents of the State Bar because they are licensed to practice law in North Carolina but alleges no facts that could sustain that contention. 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 those appeals. The State Bar's motion to dismiss is pending before the Full Commission. The Attorney General represents the State Bar.

**HGGLBT International Trust v. State of North Carolina et al (NC Industrial Commission).** This is a purported tort claim against numerous defendants. HGGLBT is a purported trust formed in an effort to defeat a foreclosure. HGGLBT alleges the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. HGGLBT contends that another defendant is licensed to practice law in North Carolina and allegedly, therefore, is an agent of the State Bar but alleges no facts that could sustain that contention. HGGLBT alleges no acts or omissions by the State Bar. The Full Commission dismissed this claim with prejudice on April 23, 2019. HGGLBT did not appeal. The Attorney General represented the State Bar.

**Daniel Chappell Flint v. NC State Bar, DHC and Margaret Cloutier (Mecklenburg County Superior Court).** Flint filed this lawsuit against the State Bar, a State Bar deputy counsel, and the DHC. Flint was the defendant in a federal criminal prosecution and is the defendant in a pending DHC case. When this lawsuit was filed, Flint had been found guilty by a jury but had not yet been sentenced. Flint contended that deputy counsel fraudulently or negligently misrepresented that the State Bar would not seek an interim suspension of his law license until he had been sentenced. He sought to enjoin the State Bar from seeking, and the DHC from entering, an interim suspension "prior to entry of a certified conviction." He also sought actual and punitive damages for alleged negligent infliction of severe emotional distress, as well as costs and attorney fees. The court denied Flint's motion for TRO and granted defendants' motions to dismiss. Flint was sentenced to 14 months in prison. The DHC entered an order of interim suspension on October 11, 2019. The OOC represented the State Bar and deputy counsel. The Attorney General represented the DHC.

**NC State Bar v. Alan Phillips - 18CVS5645 (Wake County Superior Court)**

Phillips was a licensee and was the respondent in a grievance alleging that he engaged in the unauthorized practice of law in other jurisdictions. Phillips filed an objection and motion to quash a subpoena issued by the Grievance Committee. The President of the State Bar issued an order requiring Phillips to produce the subpoenaed documents. He did not do so. The State Bar filed this action to enforce the subpoena. The State Bar served Phillips with discovery requests in this action. Phillips objected to the discovery requests, contending that the State Bar was prohibited by an alleged conflict of interest from investigating a grievance against him because, while the grievance against him was pending, he filed grievances against State Bar officers, councilors and employees. The trial court overruled Phillips' objection and ordered him to provide complete discovery responses. Phillips gave notice of appeal but did not obtain a stay of the order and did not comply with the order. In a series of hearings, Phillips was repeatedly held in contempt. He was imprisoned April 29 for two days, May 9 for two days, May 21 for 30 days, and June 25 for 45 days. On June 25, the court also disbarred Phillips, effective July 1, 2019. Phillips appealed. The OOC represents the State Bar.

**Lena Watts-Robinson v. NC State Bar and the Disciplinary Hearing Commission (Wake County Superior Court).** 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. Robinson sought damages in excess of \$25,000. On June 11, 2018, Watts-Robinson filed a voluntary dismissal of all claims against all parties. She did not refile the complaint by June 11, 2019. The OOC represented the State Bar and the Attorney General represented the DHC.

**In the Matter of Jarrette Pittman and Johnnie Finch (Pitt County Superior Court).** It was alleged that Pittman and Finch knowingly made false statements to a tribunal. The court ordered them to show cause why the court should not discipline them and appointed the OOC to serve as prosecutor. Finch agreed to a disposition that was filed under seal. After a three-day trial, the court admonished Pittman.

**Christopher Livingston v. NC State Bar, et al (Wake County Superior Court).** In July 2016, the DHC suspended Livingston for five years. Livingston sued the State Bar and the 15<sup>th</sup> Judicial District Bar in federal court, claiming that the district bar was improperly using mandatory district bar dues. He later amended his complaint to add the then president of the State Bar, and former Chair of the Grievance Committee, and the deputy counsel who prosecuted the DHC case as defendants and claimed that they selectively prosecuted him. In February 2019, the federal court dismissed for lack of subject matter jurisdiction. The following month, Livingston filed the nearly identical complaint in Wake County Superior Court. He had summonses and alias and pluries summonses issued but never served any defendant. The State Bar learned of the state court lawsuit in September 2019, when the trial court administrator instructed the parties to prepare a case management order. The State Bar informed the TCA that no defendant has been served or knew about the complaint and asked that the case be discontinued.

**Valerie Arroyo v. Daniel Zamora et al (NC Industrial Commission).** This is a purported tort claim alleging that the State Bar failed to "stop, act or prosecute" a grievance respondent. The Attorney General represents the State Bar.

**Kelvin Exum v. NC State Bar (NC Office of Administrative Hearings).** Exum filed a grievance, which was dismissed. Exum demanded an explanation for the dismissal. The State Bar sent Exum a letter in response. In this purported tort claim, Exum alleged that the letter was unsolicited, that it contained false

and unfounded information about him, and that it served no purpose other than to embarrass and harass him. The ALJ dismissed the claim. The Attorney General represented the State Bar.

**Derek Olivaria v. NC State Bar (NC Industrial Commission).** Olivaria filed this purported tort claim alleging that three lawyers engaged in misconduct in an eviction action. Petitioner does not allege any act or omission by the State Bar. The State Bar's motion to dismiss is pending. The Attorney General represents the State Bar.

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

The OOC represented the State Bar in eight appeals in 2019.

#### **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 OOC to prosecute. The court entered an order transferring Botros to disability inactive status. On May 21, 2019, the Court of Appeals affirmed in a published opinion.

#### **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* communication with a judge. On June 4, 2019, the Court of Appeals issued an unpublished opinion affirming the rule violations but remanding to the DHC for additional findings regarding the appropriate discipline. Hearing on remand has not been scheduled.

#### **In re Phillip Entzminger - 17 CRS 1930 (Pitt County)**

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 Office of Counsel to prosecute. 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 is suspended for six months. Entzminger appealed. The Court of Appeals affirmed in part, reversed in part, and remanded for a new hearing on the appropriate discipline. Entzminger's petition for discretionary review is pending with the North Carolina Supreme Court.

#### **NC State Bar v. Venus Springs - 18 DHC 25**

Springs, of Mecklenburg County, posted on her YouTube channel a link to the video deposition of an opposing party's representative. The DHC concluded that posting the video served no substantial purpose other than to humiliate or embarrass the witness. Springs maintained the link on her YouTube channel for eleven months after a federal court ordered her to remove it. The DHC reprimanded her. She appealed. Her brief is due January 21, 2020.

### **NC State Bar v. Alan Phillips - 18CVS5645 (Wake County)**

Phillips was a licensee and was the respondent in a grievance alleging that he engaged in the unauthorized practice of law in other jurisdictions. Phillips filed an objection and motion to quash a subpoena issued by the Grievance Committee. The President of the State Bar issued an order requiring Phillips to produce the subpoenaed documents. He did not do so. The State Bar filed this action seeking a mandatory injunction enforcing the subpoena. The State Bar served Phillips with discovery requests in this action. Phillips objected to the discovery requests, contending that the State Bar was prohibited by an alleged conflict of interest from investigating a grievance against him because, while the grievance against him was pending, he filed grievances against State Bar officers, councilors and employees. The trial court overruled Phillips' objection and ordered him to provide complete discovery responses. Phillips gave notice of appeal but did not obtain a stay of the order and did not comply with the order. In a series of hearings, Phillips was repeatedly held in contempt. He was imprisoned four times for a total of 79 days. The court also disbarred Phillips, effective July 1, 2019. Phillips filed notice of appeal. He did not file a brief by the January 8, 2020 due date. The Court of Appeals has not ruled on his motion to extend the time within which his brief was due.

### **NC State Bar v. Clinton Moore - 18 DHC 43**

Moore, of Charlotte, obtained more than \$14,000 from a couple as "good faith" funds to negotiate with the Small Business Administration and instead used the funds for his own benefit. Moore also neglected clients, including an inmate who paid him \$5,000 to handle an MAR. He was disbarred by the DHC. He appealed. His proposed record on appeal is due January 27, 2020.

### **NC State Bar v. Erica Erickson - 18 DHC 46**

The DHC concluded that Erickson, of Brevard and Hendersonville, knowingly notarized false or fraudulent acknowledgements and pled guilty to related criminal offenses, filed fraudulent documents with the court and fraudulently obtained signatures on powers of attorney. She was disbarred by the DHC. She appealed and has ordered the transcript.

### **In re David Shawn Clark - 19BCR1**

Clark, of Hickory, was disbarred in 2013. He had sex with a client, made false statements to a tribunal and to the Grievance Committee, attempted to suborn perjury, was convicted of several criminal charges including communicating threats and obstruction of justice, intentionally disclosed client confidences, and engaged in a conflict of interest. The DHC recommended denial of his petition for reinstatement. Clark appeal to the Council. At its October 25, 2019 meeting, the Council voted to deny his petition for reinstatement. Clark appealed to the Court of Appeals. His brief is due January 21, 2020.

## **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 sought attorney fees, “disbursements” and costs. The court allowed the State Bar to intervene. The court granted the State Bar’s motion for summary judgment on all claims. The Fourth Circuit affirmed. On December 13, 2019 the Supreme Court denied CAI’s petition for writ of *certiorari*. Van Laningham Duncan and the North Carolina Solicitor General represented the State Bar.

**Christopher Livingston v. NC State Bar and 13th Judicial District Bar (US District Court for the Eastern District of NC).** Christopher Livingston v. NC State Bar and 13th Judicial District Bar (US District Court for the Eastern District of NC). Livingston alleged 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 purported 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. Livingston amended his complaint to add the deputy counsel who prosecuted a DHC case against him and a former chair of the Grievance Committee and former officer of the State Bar as defendants, alleging that they selectively prosecuted him. The court dismissed the case in February 2019. Livingston did not appeal. The OOC represented all defendants.

**Valerie Arroyo v. Daniel Zamora, Chad Diamond, NC 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 the NC Department of Justice. 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. Arroyo gave notice of direct appeal to the United States Supreme Court. There is no indication that the Supreme Court ever addressed that purported appeal. Arroyo also filed notice of appeal to the Fourth Circuit Court of Appeals. The Fourth Circuit dismissed that appeal *per curiam*. Arroyo filed a petition for writ of *certiorari* to the United States Supreme Court, which the Court denied on October 7, 2019.

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

**COUNCIL DISBARMENTS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Disbarment</b>
Charles K. Blackmon	19BCS1	01/18/2019
David Payne	19BCS2	10/25/2019

**JUDICIAL DISBARMENTS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Disbarment</b>
Darin P. Meece	19CVS1397	02/11/2019
James W. Zisa	19CVS3820	03/08/2019
Edward F. Dunnavant	19CVS1686	06/11/2019
Alan G. Phillips	18CVS5645	07/01/2019
Sarah Jane Brinson	19CVS2091	08/05/2019
Holly M. Owen	19CVS1288	09/19/2019

**JUDICIAL DISCIPLINE & DISABILITY**

<b>Lawyer</b>	<b>File No.</b>	<b>Discipline/Disability</b>
Jarrett Pittman	18CRS57503	Admonition
Charles L. Morgan, Jr.	18CVS02796	Censure
Scott Shelton	16CVS13732	Censure

**TRANSFERS TO DISABILITY INACTIVE STATUS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Transfer</b>
Robert C. Soles, Jr.	19G0373	9/26/2019

**BEFORE THE DISCIPLINARY HEARING COMMISSION**

**Completed Discipline & Disability Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Mary March Exum	18DHC31	Disbarred (consent)
John O. Lafferty, Jr.	18DHC39	Disbarred (consent)
Steven P. MacGilvray	18DHC48	Disbarred (consent)
Gary S. Leigh	18DHC38	Disbarred (consent)
George L. Collins	18DHC16	Disbarred (consent)
Dennis H. Sullivan	18DHC49	Disbarred (default/no hearing)
John F. Hanzel	18DHC44	Disbarred (default/no hearing)
Clinton F. Moore	18DHC43	Disbarred (default/hearing)
Erica M. Erickson	18DHC46	Disbarred (hearing)
Frank A. Cassiano, Jr.	18DHC19	5-year suspension (consent)
Jerry Braswell	19DHC2	5-year suspension (consent)
Gavin A. Brown	17DHC29	2-year suspension (consent)
Phillip H. Hayes, Jr.	17DHC27	5-year suspension; possible stay after 4 years (consent)
James M. Goard	18DHC11	5-year suspension; possible stay after 2 years (consent)
Bernell Daniel-Weeks	18DHC23	5-year suspension; possible stay after 2 years (default)
Kenneth B. Holmes	18DHC34	5-year suspension; possible stay after 2 years (hearing)
Karen C. Wright	19DHC15	5-year suspension; possible stay after 2 years (consent)
Susan M. Lynch	18DHC47	5-year suspension; possible stay after 18 months (consent)

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Giles Cameron Byrd	18DHC24	4-year suspension; possible stay after 2 years (consent)
Robert R. Schoch	18DHC7	4-year suspension; possible stay after 2 years (hearing)
Travis H. Simpson	18DHC45	3-year suspension; possible stay after 18 months (default)
Christopher Albert Stella	18DHC28	3-year suspension; possible stay after 18 months (consent)
Meredith P. Ezzell	18DHC42	3-year suspension; stayed 3 years (consent)
Hubert N. Rogers, III	18DHC22	2-year suspension; stayed 4 years (consent)
Charles D. Coppage	19DHC3	2-year suspension; stayed 2 years (consent)
Brooke McKinley Webster	19DHC10	2-year suspension; stayed 2 years (consent)
Mark L. Bibbs	19DHC19	18 month suspension; stayed 3 years (consent)
Carl D. Lee	19DHC1	1-year suspension; stayed 2 years (consent)
Larry G. Hoyle	18DHC6	Censure (consent)
Ryan D. Shoaf	18DHC33	Censure (consent)
Michael A. DeMayo	19DHC6	Censure (consent)
Richard E. Batts	18DHC35	Reprimand (consent)
Venus Y. Springs	18DHC25	Reprimand (hearing)
Keith C. Booker	18DHC40	Reprimand (consent)
Hayley C. Sherman	19DHC8	interim suspension (consent) February 2019
H. Trade Elkins	18DHC50	interim suspension (consent) February 2019
J. Brandon Graham	19DHC5	interim suspension (consent) April 2019
Parker Russell Himes	19DHC17	interim suspension (consent) November 2019
Daniel Chappell Flint	19DHC4	interim suspension November 2019



### **Completed Grievance Noncompliance Actions**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Richard C. Poole	19DHC16N	Suspended

### **Completed Show Cause Hearings**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Darryl G. Smith	16DHC28	Consent order continuing stay
Katherine H. Pekman	15DHC41	Stay lifted; 1-year suspension activated
Philip S. Adkins	17DHC32	Stay extended additional 18 months

### **Completed Reinstatement Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Michael P. Crowe	16DHC9R	Reinstated
Theodore Hale	04DHC26/18BCR1	Petition denied
Shawn David Clark	19BCR1	Petition denied; appealed
Frederick J. Owens	17DHC17R	Petition denied
Elisabeth Murry-Obertein	18RD2	Reinstated from disability inactive
Powell W. Glidewell, IV	19RD1	Reinstated from disability inactive
Geoffrey H. Simmons	19BCR2	Petition withdrawn
Alexander Lapinski	19BCR3	Petition withdrawn
James Walter Smith	19BCR4	Petition withdrawn

### **Pending Discipline & Disability Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
Bradley R. Lamb	07DHC28	Not Scheduled
Robert Melville	13DHC9	Stayed
Michael J. Anderson	15DHC47/15DHC47D	Stayed
Joseph Lee Levinson	16DHC11	March 26-27
Craig M. Blitzer	17DHC23	Interim Suspension
Wendelyn R. Harris	18DHC14/18DHC14D	Stayed
Michael H. Griffin	18DHC20	January 28
Robert Lewis	18DHC36	May 28
Patrick Megaro	18DHC41	Not Scheduled
H. Trade Elkins	18DHC50	Interim Suspension
Daniel Flint	19DHC4	Interim Suspension

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
Brandon Graham	19DHC5	February 24
Robin Dale Fussell	19DHC7	May 19-22
Hayley C. Sherman	19DHC8	May 1
Nikita V. Mackey	19DHC9/19DHC23	Not Scheduled
David B. Hefferon	19DHC11	Not Scheduled
Andrew LeLiever	19DHC12	March 5
John C. Snyder	19DHC13	Not Scheduled
Gregory A. Newman	19DHC14	Not Scheduled
Parker Russell Himes	19DHC17	February 28
Charles L. Morgan, Jr.	19DHC18	Not Scheduled
Louis P. Woodruff	19DHC20	April 1
Matthew Coxe	19DHC22	Not Scheduled
Emily Moore Tyler	19DHC24	Not Scheduled
Cabell J. Regan	19DHC25	Not Scheduled
John Ivsan	20DHC1	Interim Suspension
Joseph H. Forbes	20DHC3	Not Scheduled
Yuanyue Mu	20DHC4	Not Scheduled
William Morgan	20DHC5	Not Scheduled
Kenneth Ording	20DHC6	Not Scheduled

**Pending Grievance Noncompliance Actions**

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
Harold R. Crews	20DHC2N	Not scheduled

**Pending Reinstatement Cases**

There were no pending reinstatement cases at the end of 2019.

**Pending Motions to Show Cause**

There were no pending motions to show cause at the end of 2019.

## **BEFORE THE STATE TRIAL COURTS**

### **Trustees Appointed in 2019**

<b>Lawyer</b>	<b>Reason Trustee Sought</b>
Richard M. Wiggins	Disabling Condition
Norman V. Schaich	Deceased
John S. Freeman	Deceased
Sarah Jane Brinson	Unavailable
Thomas F. Loflin, III	Deceased
Sherwood J. Carter	Deceased
Konrad O. Schoen	Deceased
Kenneth N. Glover	Deceased
John O. Lafferty, Jr.	Disbarred
Renita Thompkins Linville	Appointed to Clerkship
Paige C. Cabe	Disbarred
Bruce T. Cunningham, Jr.	Deceased
Johnathan L. Hipps	Deceased
Joseph E. Anthony	Deceased
David Vernon Hartley	Disabling Condition
H. Mac Tyson	Deceased
Patricia L. Wilson	Deceased
Crystal Walker Redding	Unavailable
Robert W. Detwiler	Deceased
Robert C. Soles, Jr.	Disabling Condition

### **TROs and Preliminary Injunctions Obtained in 2019**

<b>Lawyer</b>	<b>Date of Injunction</b>
Colin P. McWhirter	1/22/2019
Darin P. Meece	1/30/2019
Edward A. Dunnavant	2/11/2019
Sara Jane Brinson	2/18/2019
Robert C. Soles, Jr.	4/10/2019
Jonathan Brent Garner	4/11/2019
Richard C. Poole	4/22/2019
Anita B. Hunt	5/29/2019
David A. Beaver	5/31/2019
Timothy J. Pavone	6/17/2019
Lisa D. Blalock	7/18/2019
Gina E. Essey	7/19/2019
Harold. R. Crews	7/29/2019
Richard T. Dail	7/31/2019
Peter S. Coleman	8/2/2019
Cabell J. Regan	8/6/2019
Douglas P. Connor	8/13/2019
Peter A. Smith	9/5/2019
Janet P. Reed	11/12/2019

## **BEFORE THE GRIEVANCE COMMITTEE**

### Totals for 2019

Total Grievance Files Opened – 1,258  
Total Files Considered by Committee – 1,203

Dismissals – 962  
Files Dismissed & Retained – 28  
Files Abated – 2  
Files referred to the Lawyers Assistance Program – 4  
Files referred to the Trust Accounting Compliance Program – 14  
Files Dismissed with Letters of Caution – 15  
Files Dismissed with Letters of Warning – 61  
Files issued Admonitions – 37  
Files issued Reprimands – 31  
Files issued Censures – 10  
Files issued Reciprocal Discipline – 0  
Files referred to DHC – 47

### **GRIEVANCE COMMITTEE MEETING: JANUARY 17, 2019**

209 files were dismissed  
2 files were dismissed and retained  
0 files were abated  
1 file was continued  
0 lawyers were referred to the Lawyer Assistance Program  
4 lawyers were referred to the Trust Accounting Compliance Program  
0 lawyers received reciprocal discipline  
6 lawyers received letters of caution  
15 lawyers received letters of warning  
11 lawyers received admonitions  
5 lawyers received reprimands  
4 lawyers received censures  
7 lawyers were referred to the Disciplinary Hearing Commission

### **GRIEVANCE COMMITTEE MEETING: APRIL 25, 2019**

- 243 files were dismissed
- 8 files were dismissed and retained
- 1 file was abated
- 1 file was continued
- 4 lawyers were referred to the Lawyer Assistance Program
- 4 lawyers were referred to the Trust Accounting Compliance Program
- 0 lawyers received reciprocal discipline
- 1 lawyer received a letter of caution
- 12 lawyers received letters of warning
- 12 lawyers received admonitions
- 7 lawyers received reprimands
- 3 lawyers received censures
- 6 lawyers were referred to the Disciplinary Hearing Commission

### **GRIEVANCE COMMITTEE MEETING: JULY 18, 2019**

- 228 files were dismissed
- 0 files were dismissed and retained
- 0 files were abated
- 1 file was continued
- 1 lawyer was referred to the Lawyer Assistance Program
- 3 lawyers were referred to the Trust Accounting Compliance Program
- 0 lawyers received reciprocal discipline
- 3 lawyers received letters of caution
- 16 lawyers received letters of warning
- 6 lawyers received admonitions
- 11 lawyers received reprimands
- 4 lawyers received censures
- 9 lawyers were referred to the Disciplinary Hearing Commission

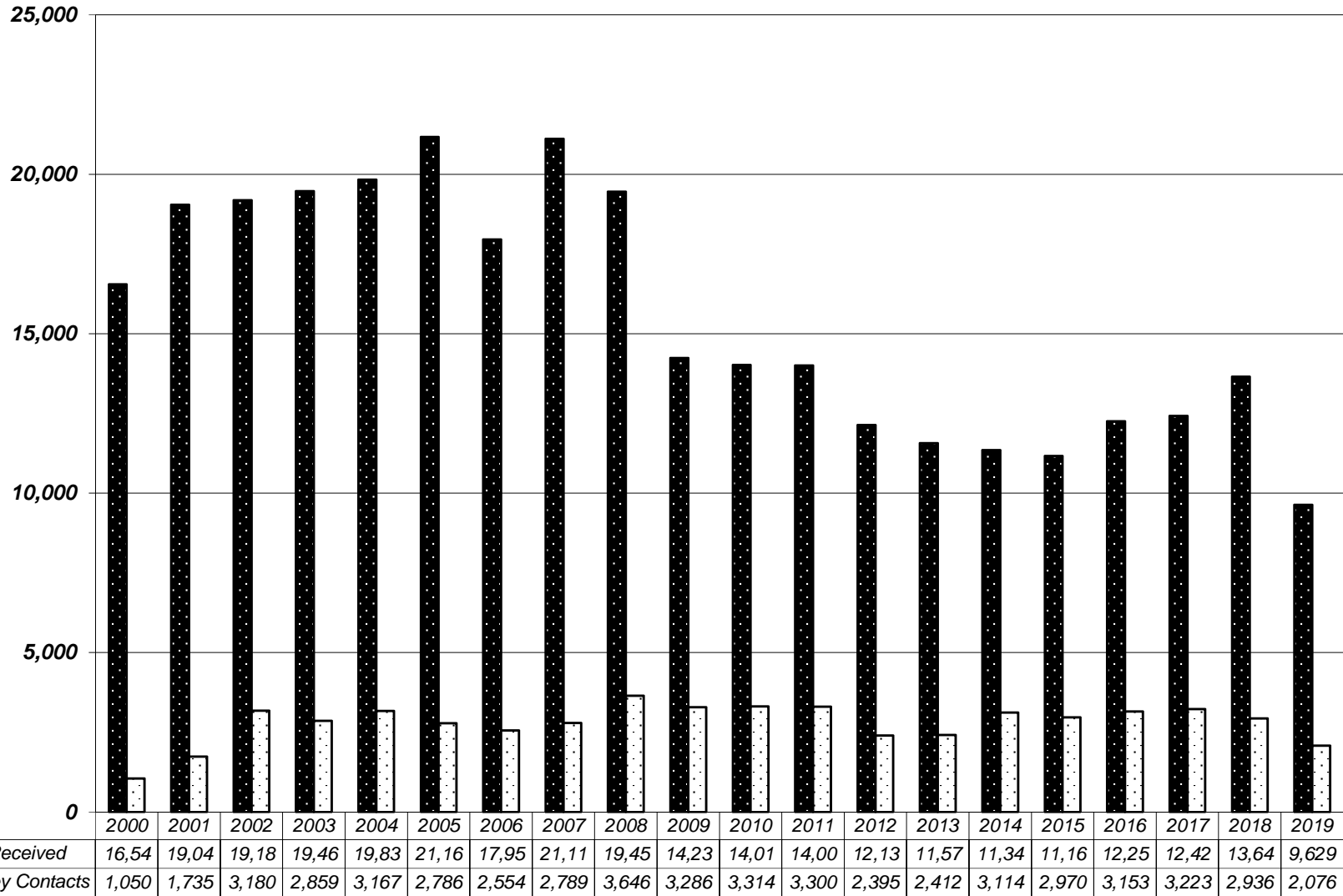
### **GRIEVANCE COMMITTEE MEETING: OCTOBER 24, 2019**

- 258 files were dismissed
- 19 files were dismissed and retained
- 1 file was abated
- 0 files were continued
- 0 lawyers were referred to the Lawyer Assistance Program
- 4 lawyers were referred to the Trust Accounting Compliance Program
- 0 lawyers received reciprocal discipline
- 3 lawyers received letters of caution
- 14 lawyers received letters of warning
- 8 lawyers received admonitions
- 8 lawyers received reprimands
- 0 lawyers received censures
- 12 lawyers were referred to the Disciplinary Hearing Commission

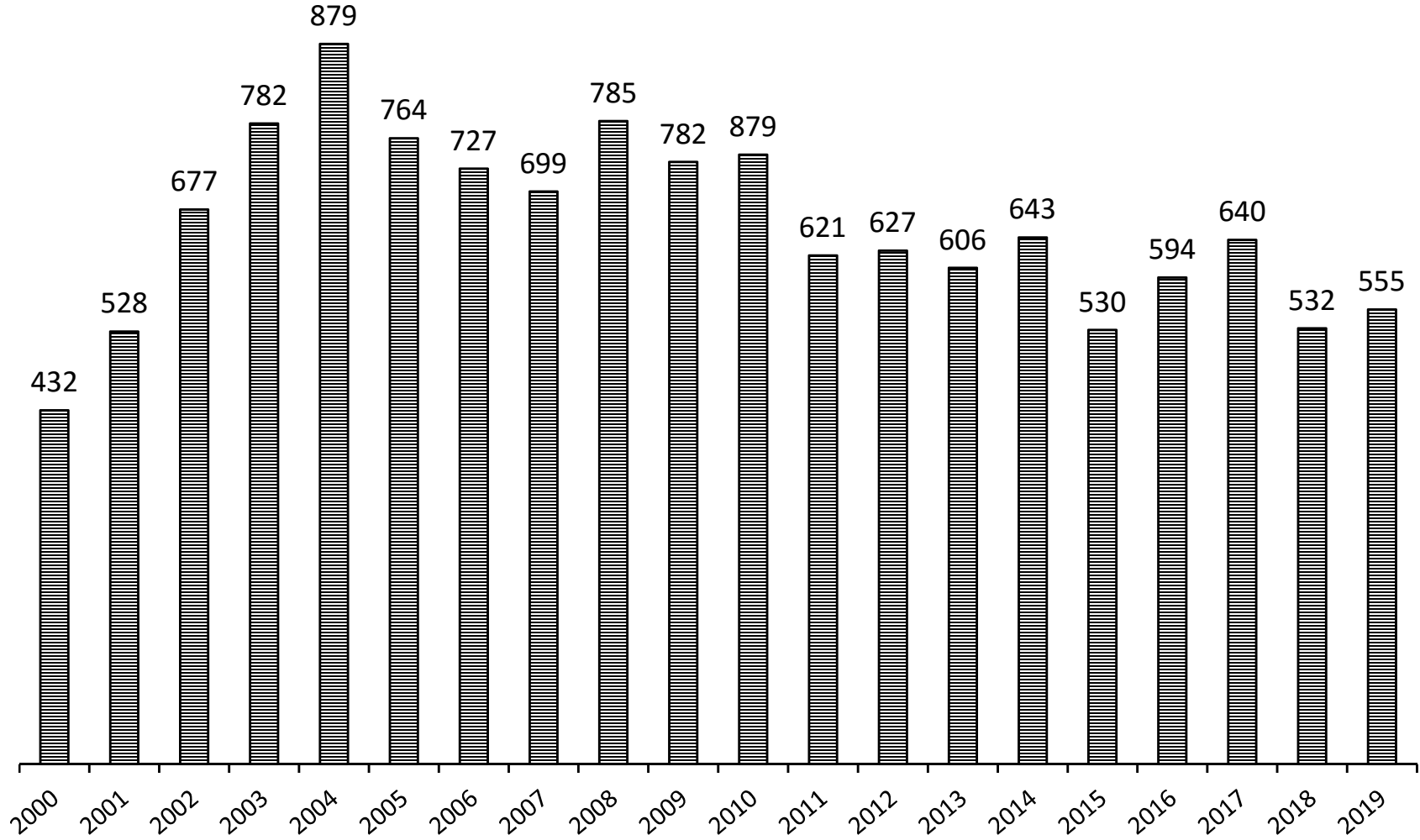
# ATTORNEY CLIENT ASSISTANCE PROGRAM

## Calls Received and Attorney Contacts

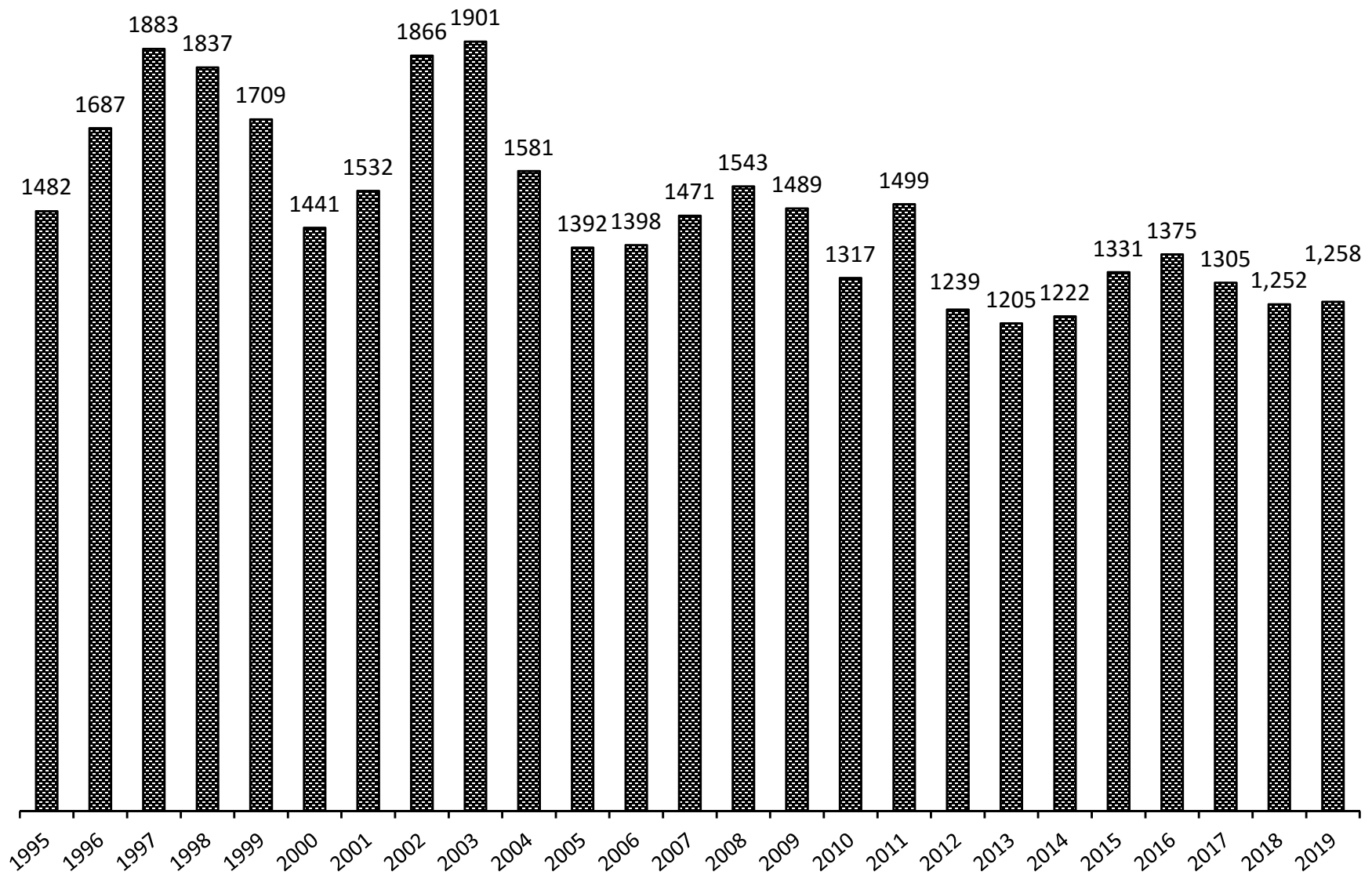
(January - December)



# Fee Dispute Resolution Petitions Filed



# Grievances Filed Annually





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

