

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
JULY 19, 2020**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the second quarter of 2020, ACAP staff responded to 676 phone calls from members of the public and placed 149 calls to lawyers in an effort to resolve their concerns. Staff also responded to 1,092 emails from members of the public and from attorneys and responded to 492 letters from inmates. During this same quarter in 2019, ACAP staff responded to 2,083 phone calls from members of the public and contacted 516 lawyers in efforts to resolve concerns expressed by members of the public. Staff also responded to 1,710 emails and 682 letters from inmates.

The State Bar opened 78 requests for fee dispute resolution during the second quarter, all of which were assigned to the two State Bar facilitators. During the same quarter of 2019, the office received 190 requests for fee dispute resolution assigned to the two State Bar facilitators.

GRIEVANCES

In 2016, 1,375 grievance files were opened. In 2017, 1,305 grievance files were opened. In 2018, 1,247 grievance files were opened. In 2019, 1254 grievance files were opened. Through July 17, 2020, 514 grievance files were opened.

As of July 17, 1,051 grievances were pending. One hundred thirty-nine grievances were stayed. Seventy-three pending files were in the judicial district grievance committees or had been returned by the district grievance committees within the past 30 days. The OOC had made its recommendation in 151 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 688 files in which no recommendation has yet been made, 172 were more than six months old. In the second quarter of 2020, 182 files were dismissed by the Grievance chair or by the Grievance chair and a vice chair.

There were no inquiries about lawyer advertising in the second quarter of 2020.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

The OOC completed three discipline and disability cases involving three lawyers in the DHC this quarter.

John C. Snyder – 19 DHC 13

Snyder, of Matthews, neglected and did not communicate with his client, made false statements to his client and to opposing counsel, did not return his client's file, knowingly made a misrepresentation or omission to the Grievance Committee, filed frivolous motions and pleadings in a civil case, made a false representation to a tribunal, and did not respond to the Grievance Committee. The DHC suspended him for three years. After serving two year of active suspension, Snyder may apply for a stay of the remainder of the suspension upon showing compliance with numerous conditions.

James Pressly Mattox – 20 DHC 11

Mattox, of Statesville, did not conduct required monthly and quarterly reconciliations and reviews of his trust accounts, on occasion disbursed more from his trust account for a client than he had in a trust account, did not always promptly disburse entrusted funds, did not supervise an assistant to whom he delegated trust accounting tasks, and back-dated certain reports in preparation for a random audit by the State Bar. Mattox was suspended for two years. The suspension is stayed for two years upon his compliance with numerous conditions.

Steven J. Allen – 20 DHC 14

Allen, of Hendersonville, had a sexual relationship with and cohabitated with a client while her child custody case was ongoing, thereby making himself a necessary witness in the case and causing prejudice to the administration of justice. He was suspended by the DHC for one year.

Completed Grievance Noncompliance Actions before the DHC

No grievance noncompliance actions were completed during the second quarter.

Completed Surrenders to the Council

No lawyers surrendered to the Council at the April 2020 meeting.

Completed Discipline and Disability Proceedings in the Courts

Peter S. Coleman of Raleigh surrendered his license and was disbarred by the Wake County Superior Court. Coleman admitted he misappropriated entrusted funds in an amount in excess of \$60,000.00. Coleman also pled guilty in Wake County District Court to one count each of felony Common Law Forgery and felony Notary Violation relating to the forgery of notary signatures in Wake County.

Kristin Harmon Long of Charlotte surrendered her license and was disbarred by the Wake County Superior Court. Lang acknowledged that she misappropriated entrusted funds totaling \$10,860.00.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were entered this quarter.

Transfers to Disability Inactive Status

Gregory A. Buscemi of Wrightsville Beach was transferred to disability inactive status by the chair of the Grievance Committee.

Interim Suspensions

Nikita V. Mackey of Charlotte consented to an interim suspension of his law license.

Completed Petitions for Reinstatement/Stay - Uncontested

No uncontested petitions for reinstatement or stay were resolved this quarter.

Completed Petitions for Reinstatement/Stay - Contested

No contested petitions for reinstatement or stay were resolved this quarter.

Completed Motions to Show Cause

No motions to show cause were completed this quarter.

TROs and Preliminary Injunctions

The Wake County Superior Court issued preliminary injunctions prohibiting **Allan R. Grimsley** of Nags Head and **Gorden W. Spivey** of Elizabeth City from handling entrusted funds.

PENDING DISCIPLINE AND DISABILITY CASES

The chair of the DHC has ordered that all pending cases that were scheduled for hearing in May are continued. Those cases have not been rescheduled.

Robert Melville, Jr. – 13 DHC 9

The chair of the DHC entered an order of interim suspension of the law license of Lake Waccamaw lawyer Robert Melville. Melville pled guilty in federal court to the felonies of conspiracy to commit bank and wire fraud. The DHC complaint has not been filed because Melville was transferred to disability inactive status.

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

It is alleged that Anderson, of Wilson, provided fabricated and misleading documents to the State Bar and/or did not correct a misapprehension he caused by such documents, did not keep proper trust account reconciliation records, did not respond to the Grievance Committee, made statements with no substantial purpose other than to embarrass a third person, engaged in undignified or discourteous conduct degrading to a tribunal, and engaged in conduct prejudicial to the administration of justice. The hearing panel found probable cause to believe Anderson is disabled, stayed the disciplinary proceeding pending resolution of the disability issue, and repeatedly ordered Anderson to undergo evaluation. Anderson defied several DHC orders requiring him to undergo evaluation. The DHC stayed the disability case until Anderson complies with those orders. In May 2016, the Wake County Superior Court entered a preliminary injunction prohibiting Anderson from practicing law until the discipline and disability cases are concluded.

Craig M. Blitzer – 17 DHC 23

Blitzer, of Reidsville, was the elected district attorney of Rockingham County. Blitzer pled guilty in Wake County Superior Court to misdemeanor willful failure to discharge duties. In August 2017, the Chair of the DHC entered an order of interim suspension of his law license. It is alleged that while serving as the District Attorney, Blitzer benefitted from his wife's State employment knowing that she did not perform any meaningful work for the benefit of the State; personally took, and asked staff

to take, online academic classes for his wife on State time; and failed to provide discovery in criminal cases. Hearing has not been scheduled.

Wendelyn R. Harris – 18 DHC 14 & 18 DHC 14D

It is alleged that Harris, of Virginia and formerly of Raleigh, submitted a purported order to the Department of Motor Vehicles on which she forged a judge's signature and that she blamed her non-lawyer assistant for these actions. Harris's assistant was convicted of forgery at a trial in which it is alleged that Harris testified falsely. Harris was automatically transferred to disability inactive status when she raised the issue of disability. After a hearing, Harris was continued on disability inactive status. The disciplinary action will be stayed until Harris is returned to active status.

Michael H. Griffin – 18 DHC 20

It is alleged that Griffin, formerly of Shelby and now of Florida, misappropriated entrusted funds. He is enjoined from handling entrusted funds. The discipline case is stayed because the panel ordered a disability proceeding pursuant to 27 N.C. Admin. Code 1B § .0122(c)(2). Griffin was transferred to disability inactive status by consent. The disciplinary action will be stayed until Griffin is returned to active status.

Robert Lewis – 18 DHC 36

Lewis, of Raleigh, was sanctioned by the bankruptcy court because he did not file required pleadings, filed pleadings containing false and misleading representations, charged an impermissible fee, did not maintain a client ledger of entrusted funds, affixed his clients' electronic signatures to pleadings and other documents without their consent, did not adequately communicate with his clients, disobeyed the rules of a tribunal, and did not report his misconduct to the State Bar as the bankruptcy court ordered him to do. It is also alleged that Lewis violated multiple trust account rules. Hearing has not been scheduled.

Patrick Megaro – 18 DHC 41

Megaro, of Orlando, Florida, represented two clients with IQs in the 50s, both of whom were sentenced to death and imprisoned for decades after being wrongfully convicted of the rape and murder of a child. They have now been exonerated. It is alleged that Megaro embezzled his clients' money, charged a "nonrefundable" fee, charged an excessive fee, made misrepresentations to his clients, made misrepresentations to tribunals, aided others in the unauthorized practice of law, and did not act with diligence. Hearing was continued and has not been rescheduled.

H. Trade Elkins – 18 DHC 50

Elkins, of Hendersonville, pled guilty to one felony count of wire fraud in violation of 18 U.S.C. § 1343. Elkins was sentenced to 24 months in prison followed by supervised release and was ordered to pay restitution of \$545,738.90. In February 2019, the chair of the DHC entered an order of interim suspension of his law license. The DHC complaint has not been filed.

Daniel Flint – 19 DHC 4

Flint, of Charlotte, was found guilty by a jury in federal court in California of entering an airport area in violation of security requirements, a felony. Flint was sentenced to fourteen months in prison. In October 2019, the chair of the DHC entered an order of interim suspension of his law license. It is alleged that Flint was convicted of a felony reflecting adversely on his fitness as a lawyer, presented false diplomatic credentials to TSA agents to avoid having his bag searched before boarding an airplane, and falsely asserted that he was a diplomat for the International Human Rights Commission. The case is stayed until Flint is released from prison. Hearing has not been scheduled.

Robin Dale Fussell – 19 DHC 7

It is alleged that Fussell, of Charlotte, engaged in misconduct in connection with real estate closings, including making a false statement to a financial institution, closing transactions knowing information provided to the lenders was not accurate or was no longer accurate, recording a deed without receiving required consideration, preparing and securing execution of a false HUD-1 Settlement Statement, and assisting the recipient of the property in using the improperly-obtained property as collateral. Hearing was continued and has not been rescheduled.

Hayley C. Sherman – 19 DHC 8

Sherman, of Mayodan, pled guilty to the state felony offenses of possession of marijuana with intent to manufacture, sell, or deliver in violation of N.C. Gen. Stat. § 90-95(a) (three counts); sale or delivery of marijuana in violation of N.C. Gen. Stat. § 90-95(a) (two counts); conspiracy to sell or deliver marijuana in violation of N.C. Gen. Stat. § 90-98 (two counts); maintaining a store, dwelling, vehicle, boat or other place for use, storage, or sale of controlled substances in violation of N.C. Gen. Stat. § 90-108(a)(7) (three counts); and one count of possession of a Schedule IV substance with intent to manufacture, sell, or deliver in violation of N.C. Gen. Stat. § 90-95(a); and to two counts of the state misdemeanor offense of possession of marijuana paraphernalia in violation of N.C. Gen. Stat. § 90-113.22(a). In February 2019, the chair of the DHC entered an order of interim suspension of her law license. The State Bar has alleged the criminal convictions and the underlying misconduct. Hearing is scheduled for August 19.

Nikita V. Mackey – 19 DHC 9

It is alleged that Mackey, of Kings Mountain, collected legal fees and engaged in the unauthorized practice of law while his law license was administratively suspended, neglected and did not communicate with two clients, did not refund unearned fees, made a false representation on his petition for reinstatement, did not participate in good faith in the mandatory fee dispute resolution process, and did not respond to the Grievance Committee. Hearing has not been scheduled.

Gregory A. Newman – 19 DHC 14

It is alleged that Newman, District Attorney for Prosecutorial District 42, falsely represented to the court that the victim of an alleged sexual assault had been notified of a plea agreement and made false representations to the State Bar about the underlying criminal case. Hearing is scheduled for November 12-13.

Charles L. Morgan, Jr.—19 DHC 18

It is alleged that Morgan, of Charlotte, grossly mismanaged his trust account and violated an injunction prohibiting him from handling entrusted funds. Hearing was continued and has not been rescheduled.

Matthew Coxe – 19 DHC 22

It is alleged that Coxe, of Jacksonville, misappropriated entrusted funds, did not reconcile his trust accounts, served as attorney-in-fact for an elderly client while he was enjoined by the court from acting as a trustee or attorney-in-fact, used the client's funds to pay his personal expenses, and otherwise mismanaged the client's funds. He is enjoined from handling entrusted funds. Hearing was continued and has not been rescheduled.

Nikita Mackey – 19 DHC 23

It is alleged that Mackey, of Kings Mountain, neglected and failed to communicate with a client, vandalized cars owned by his former spouse and her father by discharging a firearm into them,

negotiated a check upon which he forged his former spouse's endorsement, and slept during a substantial portion of a client's federal criminal trial. Hearing has not been scheduled.

Cabell J. Regan – 19 DHC 25

It is alleged that while serving as attorney-in-fact for a client, Regan, of Pittsboro, breached his fiduciary duty, engaged in dishonest conduct, embezzled fiduciary funds, collected an excessive fee, and entered into a business transaction with the client. It is also alleged that Regan misappropriated client funds, did not properly maintain and disburse client funds, and did not maintain required trust account records. He is enjoined from handling entrusted funds and from serving in any fiduciary capacity. Hearing is scheduled for October 5-7.

Joseph H. Forbes – 20 DHC 3

It is alleged that Forbes, of Elizabeth City, willfully failed to account for and pay over to the IRS payroll taxes required to be withheld from the paychecks of his law firm's employees. The allegations of misconduct have been established by default order. Hearing on the appropriate discipline has not been scheduled.

William Morgan – 20 DHC 5

It is alleged that Morgan, of Elizabeth City, did not conduct required quarterly trust account reviews and reconciliations, did not maintain records sufficient to identify the owners of funds in his trust account, did not adequately supervise assistants to whom he delegated trust account duties, did not ensure entrusted funds were deposited into his trust account, did not promptly correct the resulting deficiencies in his trust account, and did not promptly disburse entrusted funds. Hearing was continued and has not been rescheduled.

Kenneth Ording – 20 DHC 6

It is alleged that Ording, of Hampstead, did not promptly deposit entrusted funds, did not adequately supervise one or more assistants to whom he delegated trust account duties, did not conduct required monthly and quarterly trust account reviews and reconciliations, disbursed funds from his trust account for clients in excess of any funds held for those clients in the trust account, did not promptly reimburse the resulting deficiencies to the trust account, had bank charges paid with entrusted funds, did not promptly disburse entrusted funds, commingled his own funds with entrusted funds, did not always create and maintain client ledgers, and did not ensure client ledgers were accurate. Hearing was continued and has not been rescheduled.

Martin M. Brennan – 20 DHC 7

It is alleged that Brennan, of Huntersville, withheld funds from his employees' paychecks to pay health insurance premiums and state and federal taxes, but instead used the funds for his own purposes. Hearing has not been scheduled.

John Way – 20 DHC 8

It is alleged that Way, of Morehead City, assisted a client in perpetrating a fraudulent real estate transaction to avoid creditors. Hearing has not been scheduled.

Nicole A. Crawford – 20 DHC 9

It is alleged that Crawford, of Durham, neglected a client's case, made multiple false statements to her client, opposing counsel and the court, and fabricated documents. Hearing has not been scheduled.

Christie Bynum Smith – 20 DHC 12

It is alleged that Bynum Smith, of Greensboro, falsely represented to her cyber insurance carrier, to the FBI, and to the State Bar that she telephoned the seller in a real estate transaction to verify wiring instructions before she made a wire disbursement of the seller’s proceeds. Hearing has not been scheduled.

Kenneth Davies – 20 DHC 15

It is alleged that Davies, of Charlotte, entered into a business transaction with a client and disbursed settlement funds to himself without client approval. Hearing has not been scheduled.

Janet Reed – 20 DHC 16

It is alleged that Reed, of Jacksonville, embezzled money from a relative while serving as his attorney-in-fact. Hearing has not been scheduled.

Daniel Rufty – 20 DHC 17

It is alleged that Rufty, of Charlotte, aided in the criminal practice of debt adjusting, did not supervise his nonlawyer assistants, and made false statements to his clients. Hearing has not been scheduled.

Pending Grievance Noncompliance Actions before the DHC

There are no pending grievance noncompliance actions before the DHC.

Pending Petitions for Reinstatement/Stay - Uncontested

There are no pending uncontested petitions for reinstatement or stay.

Pending Petitions for Reinstatement/Stay - Contested

There are no pending contested petitions for reinstatement or stay.

Pending Motions to Show Cause

The Office of Counsel filed a motion to activate the suspension of David C. Hefferon for noncompliance with the conditions of a stayed suspension previously imposed by the DHC.

Pending Surrenders to the Council

No lawyers surrendered their law licenses to the Council at the April meeting.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed Appeals

No appeals were completed this quarter.

Pending Appeals

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. 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 serves the first six months of the suspension. 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 by the North Carolina Supreme Court is pending.

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. The State Bar filed its brief on March 27. All briefs have been filed. The Court will decide the case on August 12 without oral argument. The Order of Discipline is stayed pending appeal.

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. Briefs have been filed. The Court will decide the case on May 26 without oral argument.

NC State Bar v. Clinton Moore - 18 DHC 43

Moore, of Charlotte, obtained property by false pretense and misappropriated entrusted funds totaling \$14,000.00. Moore also neglected clients, including an inmate who paid him \$5,000.00 to handle a motion for appropriate relief. He was disbarred by the DHC. He appealed. His proposed record on appeal was due January 27. He sent an email requesting an extension of time and was instructed to file a motion but did not do so. The State Bar will move to dismiss the appeal.

North Carolina 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. The briefs are filed.

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. He petitioned for reinstatement from disbarment. The DHC recommended denial of the petition. Clark appeal to the Council. At its October 25, 2019 meeting, the Council denied the petition for reinstatement. Clark's appeal to the Court of Appeals is scheduled for decision without oral argument.

TRUST ACCOUNT COMPLIANCE PROGRAM

Fifty-three lawyers have completed the TAC Program since its inception. Nine lawyers accepted offers to participate in the TAC Program after the April 2020 Quarterly Meeting. Leanor currently supervises thirty-six participants. Leanor also monitors twelve DHC defendants whose stayed suspensions include trust account compliance conditions and oversees compliance with random audit corrections.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 9 new files this quarter making 27 files for the year. The committee did not meet in April. Completed investigations that were ready for consideration in April were considered at the committee's July 15 meeting, at which the committee considered a total of 20 files.

The OOC continues to work with the Consumer Protection Division of the Attorney General's Office dealing with several out-of-state lawyers and law firms that promote debt adjusting and loan modification schemes. With limited exceptions, debt adjusting is illegal in North Carolina. Numerous marketing firms and lawyers engage in this practice.

Pending, Recently Completed, and Contemplated Authorized Practice Litigation

There is no pending, recently completed or contemplated Authorized Practice litigation.

Prepaid Legal Services Plan Registration

The State Bar received two initial registration forms this quarter for **Ride Share and Delivery Supplement (20PP02)** and **Debt Cleanse (20PP03)**. Staff is reviewing the materials for these plans.

Staff reviewed registration forms and materials for **Debt Cleanse (19PP02)**, **MetLaw4.0 (19PP03)**, and **City of Charlotte (19PP04)** this quarter. MetLaw4.0 and City of Charlotte were registered. Debt Cleanse was not registered.

During its July 15 meeting, the Authorized Practice Committee considered technical revisions to proposed amendments to the rules for registering prepaid plans and will ask the Executive Committee to recommend that the Council adopt those amendments.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Derrick Allen v. NC State Bar, et al (US District Court, MDNC). Allen was convicted of murder in Durham. His conviction was vacated in one of the cases that led to removal of Tracey Cline as Durham County District Attorney. Allen has filed multiple pro se complaints in federal court against numerous parties directly and indirectly associated with his case. This lawsuit alleges that the State Bar and several of its employees violated his civil rights because his grievances were not properly considered. The trial court dismissed the complaint on its own motion following a frivolity review. Allen gave notice of appeal. On April 17, 2020, the Fourth Circuit affirmed the trial court per curiam. Allen filed a petition for certiorari with the U.S. Supreme Court on April 20. The Court's docket shows that the petition will be considered at its September 29, 2020 conference.

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 Office of Counsel will represent them.

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.

Christopher Livingston v. N.C. State Bar, et al (Wake County Superior Court). Livingston is a licensee. In July 2016, the DHC suspended him for five years. The DHC order was affirmed on appeal. In January 2018, Livingston sued the State Bar and the district bar in federal court alleging that the district bar improperly used mandatory district bar dues. Livingston added John Silverstein (Chair of the Grievance Committee that found probable cause) and Leanor Hodge (who prosecuted Livingston) as defendants, alleging that they selectively prosecuted him. In February 2019, the federal court granted the State Bar defendants' motion to dismiss for lack of subject matter jurisdiction. In March, Livingston filed this action, a nearly identical complaint, in Wake County

Superior Court. Livingston never served any defendant. On June 3, he obtained alias and pluries summonses but never served them. The State Bar first learned of the Wake County lawsuit on September 9, 2019, when the trial court administrator directed the parties to prepare a case management order. The State Bar notified the trial court administrator that, because no defendant has been served, the case should be discontinued. The State Bar has heard nothing further from the trial court administrator and the case has not been scheduled for hearing.

North Carolina State Bar v. Alan Phillips (Wake County Superior Court). Phillips was a licensee and a grievance respondent. The grievance alleged that Phillips 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 for production of information relating to his alleged misconduct. The President of the State Bar denied Phillips' motion and ordered him to produce the subpoenaed documents. He did not do so. The State Bar filed this action seeking a mandatory injunction enforcing the subpoena. Phillips objected to the State Bar's 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 was pending, he filed his own grievances against State Bar officers, councilors and employees. The trial court overruled Phillips' objection and ordered him to provide complete discovery responses. Phillips did not do so by the deadline in the court's order. Phillips filed a notice of appeal but did not obtain a stay of the order. Phillips was repeatedly held in contempt and was imprisoned four times for a total of 79 days. The court also disbarred Phillips effective July 1, 2019. Phillips' appeal to the North Carolina Court of Appeals will be decided by the Court on May 26 without oral argument, the Office of Counsel represents the State Bar.

Derek Olivaria v. North Carolina 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 deputy commissioner dismissed the claims with prejudice on June 29, 2020. Olivaria did not appeal by the July 14 deadline. The Attorney General represents the State Bar.

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" Daniel Zamora. Arroyo has previously filed other claims in state and federal courts against the State Bar which have been dismissed. The deputy commissioner dismissed the claims with prejudice on June 29, 2020. Arroyo appealed. The Attorney General represents the State Bar.

Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission). This is the second of two currently pending purported tort claims in which Arroyo alleges that the State Bar violated her rights by refusing to discipline licensee Zamora. This is the second purported tort claim Arroyo has filed making the same allegations regarding Zamora. The deputy commissioner dismissed the claims with prejudice on June 29, 2020. Arroyo appealed. The Attorney General represents the State Bar.

Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission). Arroyo filed this purported tort claim alleging that the State Bar violated her rights by refusing to discipline licensee Diamond. The deputy commissioner dismissed the claims with prejudice on June 29, 2020. Arroyo appealed. The Attorney General represents the State Bar.

Ballentine International Express Trust/Trustee Board by Trustee v. State of North Carolina et al (NC Industrial Commission). This is a purported tort claim against numerous defendants. Ballentine is a purported trust formed in an effort to defeat a foreclosure. Ballentine alleges the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust

and the trustee cancelled the deed of trust. Ballentine 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.

Kelvin Exum v. North Carolina 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. Exum alleges that the letter was unsolicited, that it contains false and unfounded information about him, and that it served no purpose other than to embarrass and harass him. The OAH dismissed Exum's claim. He appealed to Wake County Superior Court. No hearing has been scheduled. The Attorney General represents the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 45 claims on the agenda for the Board's July 23 meeting. No lawsuits are pending in superior court seeking reimbursement from a disbarred lawyer for payments made by the CSF.

Disbursement Cases

The OOC obtained approval from the Disbursement Committee to file one motion for disbursement of \$5,450.47 from the frozen trust account of a disbarred lawyer and one motion for escheatment of \$358.91 from the frozen trust account of a disbarred lawyer.

Trusteeships

Trustees were appointed to wind down the practice of **Bradley Scott Moree** of Wilmington, who is unavailable to clients, and the practices of deceased lawyers **Billie Ray Ellerbe** of Charlotte, **George L. Collins** of Jacksonville, **Robert T. Speed** of Boone, **Tarlton Roberts Thompson, Jr.** of Aurora, and **William J. Cathey, III** of Rosman.

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

APPEALS IN OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Completed Appeals

There were no other completed appeals in the state and federal courts this quarter.

Pending Appeals

Derrick Allen v. NC State Bar, et al (US Court of Appeals for the Fourth Circuit). Allen filed a series of cases in federal court against numerous parties including the State Bar. He alleged that the State Bar and several of its employees did not properly consider grievances he filed. He appealed the trial court's order dismissing his claims following a frivolity review. Allen gave notice of appeal to the Fourth Circuit. On April 17, 2020, the Fourth Circuit affirmed the District Court *per curiam*. Allen filed a petition for certiorari with the U.S. Supreme Court on April 20. The Court's docket shows that the petition will be considered at its September 29, 2020 conference.

PERSONNEL

Despite my many efforts, Root will retire on August 7 and Mary will retire on September 30. Root and Mary have spent illustrious careers serving the people of North Carolina and the legal profession. They are beloved by their colleagues in the OOC.

On a happier note, the OOC is delighted to welcome Tyler Gibbons, who was Joe Cerone's extraordinarily capable assistant, to the OOC as a paralegal. Tyler is also an ordained minister. Todd Bascom, who was a paralegal in the OOC, has moved to the ACAP department as a public liaison. Andi Koretsky, who has been working part-time as a receptionist for the State Bar, will join the ACAP team full-time as an administrative assistant on August 1. Congratulations to ACAP for attracting these two superb employees. Liza Foley, who was a summer clerk in the OOC in 2018, will become a deputy counsel on August 10. She is a 2019 graduate of Campbell Law and is currently clerking for Judge Zachary at the N.C. Court of Appeals.

MISCELLANEOUS

Josh continues to teach legal research and writing at Campbell Law, likely because they can't find anyone else willing to do it. He regularly presents at NCBA Professionalism for New Attorneys programs and other CLEs.

Alex regularly teaches CLEs on ethics and technology.

Leonor chairs the 10th JD/WCBA Professionalism Committee and continues to serve on the NCBA Professionalism Committee.

Mary serves on the 10th Judicial District Bar Memorial Committee.

Carmen is an Associate Adjunct Professor of professional responsibility at UNC Law and President of the Wake County Bar Association. She continues to serve as the OOC's liaison to the judiciary. She also teaches CLEs across the state.

Barry and investigator Doug Miller have been working with Investor's Title to host wire fraud summits. The summits are designed to prevent wire fraud affecting trust accounts and to educate lawyers and their staffs about scam prevention. The latest summit was held November 14. Barry is also working with Investor's Title and the North Carolina Association of Realtors to offer wire fraud

prevention CLEs for lawyers, paralegals and brokers. Barry continues to mentor a third-year law student in the Campbell Law Connections Mentorship Program.

Jennifer volunteers as a judge with Raleigh's Capital Area Teen Court program.

Katherine serves on the NCBA Professionalism and Women in the Profession committees.