

**REPORT OF THE OFFICE OF COUNSEL  
TO THE N.C. STATE BAR COUNCIL  
JANUARY 15, 2021**

**ATTORNEY CLIENT ASSISTANCE PROGRAM**

During the fourth quarter of 2020, ACAP staff responded to 1,252 phone calls from members of the public and placed 529 calls to lawyers in an effort to resolve their concerns. Staff also responded to 1,183 emails from members of the public and from attorneys and responded to 465 letters from inmates.

The State Bar opened 70 requests for fee dispute resolution during the fourth quarter, all of which were 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, 1,254 grievance files were opened. In 2020, 927 grievance were opened. As of January 6, 16 grievance files had been opened.

As of January 4, 1,163 grievances were pending. One hundred-fifty-eight grievances were stayed. Fifty-five 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 248 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 702 files in which no recommendation has yet been made, 151 were more than six months old. In the fourth quarter of 2020, 71 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 fourth quarter of 2020.

**DISCIPLINE AND DISABILITY CASES**

**Completed Cases Before the Disciplinary Hearing Commission**

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

**Gregory A. Newman – 19 DHC 14**

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 Grievance Committee about the underlying criminal case. The DHC suspended his license for three years. The suspension is stayed for three years upon conditions.

**Matthew Coxe – 19 DHC 22**

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 was disbarred.

**Nicole A. Crawford – 20 DHC 9**

Crawford, of Durham, neglected a client’s case, made multiple false statements to her client, opposing counsel and the court, and fabricated documents. Crawford did not participate in the DHC proceeding and was disbarred upon the Office of Counsel’s motion for entry of discipline by default.

**Gina E. Essey - 20 DHC 19**

Essey, of Oak Island, did not conduct quarterly and monthly trust account reconciliations, did not maintain accurate client ledgers, did not promptly disburse earned fees, and did not perform quarterly trust account reviews. The DHC suspended her license for two years. The suspension is stayed for two years upon enumerated conditions.

**Judith L. Birchfield – 20 DHC 21**

Birchfield, of Chapel Hill, did not ensure that a client’s estate planning documents were properly executed and amended to effectuate the client’s desires, notarized a false acknowledgement, knowingly assisted in probating an invalid will, and made false statements to third parties and the Grievance Committee. Birchfield has tendered an affidavit of surrender of her law license and was disbarred by the DHC.

**Completed Grievance Noncompliance Actions before the DHC**

No grievance noncompliance actions were completed this quarter.

**Completed Surrenders to the Council**

No lawyers were disbarred by the State Bar Council at its October meeting.

**Completed Discipline and Disability Proceedings in the Courts**

No discipline and disability cases were completed in the courts this quarter.

**Orders of Reciprocal Discipline**

No orders of reciprocal discipline were entered this quarter.

**Transfers to Disability Inactive Status**

No orders transferring lawyers to disability inactive status were entered this quarter.

**Interim Suspensions**

No orders of interim suspension were entered this quarter.

**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

### **Meredith P. Ezzell – 18 DHC 42SC**

In February 2019, the DHC suspended Meredith P. Ezzell, of Wilmington, for three years. The DHC concluded that Ezzell neglected and did not adequately communicate with her client, collected excessive fees, did not refund unearned fees, did not protect her client's interests upon termination of the representation, misrepresented her services, did not supervise her nonlawyer assistant, and violated multiple trust accounting rules. The suspension was stayed for three hears on enumerated conditions. The DHC entered a consent order finding that Ezzell did not comply with the conditions and extended the stay for an additional eighteen months.

### **Sean Thomas Dillenbeck – 20 CVS 4911 (Wake County Superior Court)**

On April 13, 2020, the Wake County Superior Court enjoined Dillenbeck, of Gastonia, from handling entrusted funds and ordered him to provide trust account and client records to the State Bar. The court granted the State Bar's motion for an order requiring Dillenbeck to show cause why he should not be held in contempt for failing to produce the required documents. After multiple hearings necessitated by last-minute document production and requests for more time to produce additional documents, the court determined that Dillenbeck was not in contempt.

## TROs and Preliminary Injunctions

The Wake County Superior Court issued a preliminary injunction prohibiting **Melvin L. Wall, Jr.** of Charlotte from handling entrusted funds.

## PENDING DISCIPLINE AND DISABILITY CASES

**The chair of the DHC continued all cases that were scheduled for hearing in May, June and July. Those cases are now being scheduled for hearing and hearings are being held.**

### **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 fraud 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.

**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. The Court of Appeals issued an unpublished opinion affirming the rule violations but remanding to the DHC for additional findings regarding the appropriate discipline. Motions related to remand procedures are pending before DHC. Hearing on remand 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 is scheduled for April 23, 2021.

**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 and to tribunals, aided others in the unauthorized practice of law, and did not act with diligence. Hearing is scheduled for the week of March 15, 2021.

**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 convicted 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. Hearing is scheduled for August 3-5, 2021.

**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 February 5, 2021.

**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 in 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.

**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 April 6-8, 2021.

**William Morgan – 20 DHC 5**

It is alleged that Morgan, of Elizabeth City, did not conduct 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 in his trust account, did not adequately supervise one or more assistants to whom he delegated trust account duties, did not conduct 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 for health insurance premiums and state and federal taxes, but instead used the funds for his own purposes. It is also alleged that Brennan failed to file and pay his state and federal income taxes for five tax years. 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 Grievance Committee 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.

**George Rouco – 20DHC13**

Rouco, of Charlotte, pled guilty to felony possession of a controlled substance. The chair of the DHC denied the State Bar's motion for interim suspension. The DHC complaint has not been filed.

**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 is scheduled for the week of June 14, 2021.

**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 is scheduled for the week of January 25, 2021.

**Scott Shelton – 20 DHC 18**

It is alleged that Shelton, of Hendersonville, neglected numerous client matters. Hearing has not been scheduled.

**Wesley S. White – 20 DHC 20**

It is alleged that White, of Charlotte, did not communicate with his client, did not adequately respond to discovery, and did not appear at multiple scheduled hearings, which ultimately resulted in his client’s arrest for contempt. Hearing has not been scheduled.

**Melvin L. Wall, Jr. – 20 DHC 22**

It is alleged that Melvin Wall, of Charlotte, did not communicate with his client, did not perfect an appeal, and did not timely respond to the Grievance Committee. Hearing has not been scheduled.

**Katherine Pekman – 20 DHC 23**

It is alleged that Pekman, of Hickory, did not diligently represent and adequately communicate with multiple clients, did not refund unearned fees, did not respond to notices of mandatory fee dispute resolution, and did not respond to the Grievance Committee. Hearing has not been scheduled.

**Victoria Block – 21 DHC 1**

It is alleged that after she participated in TACP, Block, of New Bern, did not properly reconcile her trust account. Hearing has not been scheduled.

**Karen C. Wright – 21 DHC 2**

It is alleged that Wright, of Shelby, embezzled entrusted funds, committed perjury, made false statements, and did not timely turn over a client file. Hearing has not been scheduled.

**James E. Rogers – 21 DHC 3**

It is alleged that Rogers, of Durham, commingled personal funds with entrusted funds, advanced funds to a client, disbursed funds from his trust account in excess of funds held for that client in his trust account, did not timely and properly conduct quarterly reconciliations, did not deposit entrusted funds into his trust account, did not maintain accurate trust account records, did not promptly disburse entrusted funds, and did not send required annual accounts to clients. Hearing has not been scheduled.

**Pending Grievance Noncompliance Actions before the DHC**

There are no pending grievance noncompliance actions.

**Pending Petitions for Reinstatement/Stay - Uncontested**

There are no pending uncontested petitions for reinstatement or stay.

**Pending Petitions for Reinstatement/Stay - Contested**

**In re Theodore G. Hale – 20BCR1**

Hale, of Wilmington, was disbarred by the DHC in 2004. The DHC found that he misappropriated money from his former law partner, charged and collected money from the parents of a criminal defendant whom he was appointed to represent without telling them that he was obligated to represent their son at state expense, and collected and converted to his own use the \$15,287.09 proceeds of an annuity contract. In February 2019, the DHC recommended denial of Hale’s first petition for reinstatement and Hale did not seek Council review. Hearing on his second petition was continued and has not been rescheduled.

### **Jeffrey Smith – 15 DHC 27R2, 18 DHC 26R2**

In June 2018, the DHC suspended Smith, of Charlotte, for two years. The DHC concluded that Smith violated multiple trust accounting rules. The order of discipline provided that, after he served one year of the suspension, Smith could petition for a stay of the balance upon enumerated conditions. Smith did not petition for a stay. His petition for reinstatement from suspension is pending. Hearing was continued and has not been rescheduled.

#### **Pending Motions to Show Cause**

There are no motions to show cause pending before the DHC.

#### **Pending Surrenders to the Council**

No lawyers are expected to surrender to the Council at the January meeting.

### **APPEALS IN DISCIPLINE & DISABILITY CASES**

#### **Completed Appeals**

#### **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 appealed. On November 17, the Court of Appeals affirmed all of those orders in an unpublished opinion.

#### **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. On December 1, the Court of Appeals affirmed in an unpublished decision.

#### **Pending Appeals**

#### **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 Court of Appeals affirmed. On October 6, Springs filed a notice

of appeal and petition for discretionary review with the North Carolina Supreme Court. We await the Court's decision.

### **TRUST ACCOUNT COMPLIANCE PROGRAM**

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

### **AUTHORIZED PRACTICE**

The Authorized Practice Committee opened 11 new files this quarter. There are 19 new files on the Committee's October agenda for consideration.

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**

**N.C. State Bar v. Tammy Alexander (Wake County Superior Court).** At the October 2020 meeting, the Executive Committee authorized counsel to pursue injunctive relief against Tammy Alexander, a paralegal who has been submitting legal arguments to the court on behalf of incarcerated defendants. The complaint has been filed and we are awaiting return of service.

### **Prepaid Legal Services Plan Registration**

The State Bar received six initial registration forms for proposed plans this quarter. The proposed plans were registered.

The State Bar reviewed the initial registration form and materials for **Debt Cleanse (20PP03)** and determined that the plan could not be accepted for registration in October. Debt Cleanse resubmitted its initial registration statement form in December, which is pending review.

### **OTHER LITIGATION IN THE STATE AND FEDERAL COURTS**

**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 Past President of the State Bar 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.

**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 (deputy counsel 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 2019, 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 in September 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. The OOC represents the State Bar defendants.

**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. The Court of Appeals affirmed all of those orders on November 17. The OOC represented the State Bar.

**Valerie Arroyo v. Daniel Zamora et al (NC Industrial Commission).** This and the following two entries are purported tort claims filed by Arroyo against the State Bar and other entities and officials. These three files, and six additional claims Arroyo filed against other individuals and agencies, have all been dismissed and have been consolidated into a single appeal to the Full Commission. In this claim, Arroyo alleges that the State Bar failed to "stop, act or prosecute" Daniel Zamora. The Full Commission heard the State Bar's motion to dismiss in November 2020 but has not yet ruled. The Attorney General represents the State Bar.

**Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission).** In this claim, Arroyo alleges that the State Bar violated her rights by refusing to discipline licensee Zamora. The Full Commission heard the State Bar's motion to dismiss in November 2020 but has not yet ruled. The Attorney General represents the State Bar.

**Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission).** In this claim, Arroyo alleges that the State Bar violated her rights by refusing to discipline licensee Diamond. The Full Commission heard the State Bar's motion to dismiss in November 2020 but has not yet ruled. The Attorney General represents the State Bar.

**Valerie Arroyo v. Josh Stein, et al (Mecklenburg County Superior Court).** Arroyo has previously filed claims in state and federal courts against the State Bar which have been dismissed. In August 2020, Arroyo filed this action in Mecklenburg County against the Attorney General of North Carolina, the State of North Carolina, and a host of other state agencies and officials, including the State Bar, two State Bar councilors, and three members of the OOC. Arroyo makes vague allegations about a grievance. 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. Hearing has not been scheduled. 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 has not been scheduled for hearing. The Attorney General represents the State Bar.

**Kareem Abdullah Kirk v. North Carolina State Bar Grievance Committee (NC Office of Administrative Hearings).** Kirk alleges that the Grievance Committee did not properly address a grievance. This is the second claim Kirk, who also goes by the name Kareem Abdullah Kirk-Bey, has filed against the State Bar at OAH. OAH dismissed the previous claims in 2017, concluding that it did not have subject matter jurisdiction. The State Bar's motion to dismiss is pending. The Attorney General represents the State Bar.

**Isabella Amor v. Macon County DSS, Macon County Sheriff's Department, NC State Bar et al (NC Industrial Commission).** Amor filed this purported tort claim against two Macon County agencies and the State Bar. She alleges that she filed a grievance against a lawyer involved in a DSS proceeding involving her children and that the State Bar did not demand that the lawyer be removed from the proceeding. The State Bar's motion to dismiss is pending. A pretrial hearing is scheduled for January 19, 2021. The Attorney General represents the State Bar.

**Timothy Hankins v. The United States of America (US District Court EDNC).** Hankins seeks recovery from the United States for alleged violations of his rights under the United States Constitution by lawyers and judges in litigation relating to the dissolution of his marriage and a subsequent bankruptcy proceeding. Hankins filed an amended complaint adding as defendant #2 “The North Carolina State Bar Association” and mailed it to the President of the North Carolina Bar Association. Summonses have not issued. If a summons issues and is served on the State Bar, the OOC will represent the State Bar.

### **Client Security Fund Claims/Subrogation Cases**

There are 17 claims on the agenda for the Board’s January 14 meeting. There are three lawsuits pending in superior court seeking reimbursement from a disbarred lawyer for payments made by the CSF.

### **Disbursement Cases**

The Wake County Superior Court entered five orders to disburse or escheat \$26,380.61 from the enjoined accounts of disbarred or suspended lawyers this quarter.

### **Trusteeships**

Trustees were appointed to wind down the practices of deceased attorneys **William H. Cannon** of Oak Island, **Koy E. Dawkins** of Monroe, **William E. Rouse** of Raleigh, **Barrett L. Crawford** of Valdese, **Stephen Russell Simmons** of Raleigh, and **Marjorie R. Mann** of Asheville. The State Bar has also filed petitions for appointment of trustees to wind down the practices of disbarred attorney **Lisa D. Blalock** of Laurinburg and deceased attorneys **Stephany C. Hand** of Durham and **Laurel O. Boyles** of Winston Salem.

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 completed appeals in other matters in the state or federal courts.

### **Pending Appeals**

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

## **PERSONNEL**

Robert Weston joined the OOC as deputy counsel on November 9. Rob is a 2014 graduate of Campbell Law School and has been in private practice in Raleigh. Laurel Christmas, a 2L at Campbell Law School, joined the OOC as an extern on January 4 for the Spring 2021 semester.

## MISCELLANEOUS

Josh continues to teach legal research and writing at Campbell Law, likely because they can't find anyone else to do it. He regularly presents at various CLEs. He is currently heating his house with a wood-burning stove, and the "check engine" light has been on in his car for a record 9 consecutive months.

Alex regularly teaches CLEs on ethics and technology. As the most technologically adept person in OOC, he has worked tirelessly to help his colleagues navigate the technological challenges presented by the ransomware attack and by COVID. He serves on the committee coordinating our new software implementation. Alex also staffs the Subcommittee on Compensation of Court-Appointed Counsel and the Courthouse Access Committee.

Fern staffed the Ethics subcommittee studying the ABA advertising rules.

Leonor chairs the 10<sup>th</sup> JD/WCBA Professionalism Committee and continues to serve on the NCBA Professionalism Committee. She served on the planning committee for the NCBA Professionalism Committee's Ethics in a Virtual World CLE and as moderator for one of its panels. She also staffs the PMBR Committee and the Diversity and Inclusion Subcommittee of the Issues Committee and three Ethics subcommittees studying the following: Proposed FEO 2 - Advancing Client Portion of Settlement; Inquiry of Grievance Committee – Avoiding Counterfeit Checks; and Wire Fraud.

Carmen is an Associate Adjunct Professor of professional responsibility at UNC Law and just concluded her tenure as President of the Wake County Bar Association. She continues to serve as the OOC's liaison to the judiciary. She frequently presents at CLEs and as a guest lecturer for law school classes. She is also staffing two Ethics subcommittees: the subcommittee on the proposed opinion re: communications with judges and the subcommittee studying the potential inclusion of antidiscrimination language in the Preamble and the Rules of Professional Conduct.

David staffs the Authorized Practice Committee.

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. A summit was scheduled for spring 2020 but must be rescheduled due to COVID. 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, which serves the dual purpose of providing the opportunity for teens charged with minor offenses to have the charges dismissed upon successful completion of the program and of providing teens interested in the law with the opportunity to serve as youth attorneys in the Teen Court hearings. Jennifer volunteers as a judge in mock trial competitions, most recently with the 15<sup>th</sup> Annual Tobacco Road Invitational in November. Jennifer also staffs the LAMP Committee.

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