

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
APRIL 16, 2021**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the first quarter of 2021, ACAP staff responded to 1,149 phone calls from members of the public and placed 246 calls to lawyers in an effort to resolve their concerns. Staff also responded to 1,387 emails from members of the public and from attorneys and responded to 495 letters from inmates.

The State Bar opened 81 requests for fee dispute resolution during the first 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 April 8, 269 grievance files had been opened.

As of April 8, 1,210 grievances were pending. One hundred sixty-nine grievances were stayed. Forty-two 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 238 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 761 files in which no recommendation has yet been made, 146 were more than six months old. In the first quarter of 2021, 130 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 first quarter of 2021.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

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

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. The hearing took place on March 15-19, 2021. The Panel found that Megaro entered into a contract with the clients when he knew they didn't have the capacity to understand it, charged an "irrevocable" fee, charged an excessive fee, made misrepresentations to his clients and to tribunals, and made arguments against his clients' interests in an effort to protect his own fee. Megaro was suspended for five years and ordered to reimburse \$250,000.00 to the clients as a condition of reinstatement. Mr. Megaro may petition for a stay of the final three years after serving two years' active suspension.

Robin Dale Fussell – 19 DHC 7

Fussell, of Charlotte, engaged in misconduct and a conflict of interest in connection with real estate closings. The DHC suspended his license for one year. The suspension is stayed for one year.

William Morgan – 20 DHC 5

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. The DHC suspended his license for four years. The suspension is stayed for four years upon enumerated conditions.

Daniel Rufty – 20 DHC 17

Rufty, of Charlotte, aided in the criminal practice of debt adjusting, did not supervise his nonlawyer assistants, and made false statements to his clients. He was suspended for five years. After serving six months of the suspension, Rufty will be eligible to petition for a stay of the balance upon demonstrating compliance with enumerated conditions.

Scott Shelton – 20 DHC 18

Shelton, of Hendersonville, neglected and did not communicate with numerous clients, did not respond to the Grievance Committee, released escrow funds without authority to do so, did not return a client file, did not deposit entrusted funds into a trust account, did not provide required accountings of entrusted funds, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, disbursed funds from his trust account on behalf of a client for whom no funds were in the account, and handled entrusted funds when he was enjoined by the Wake County Superior Court from doing so. He was suspended for five years. The suspension begins to run upon expiration of the three-year suspension imposed upon him in 17 DHC 1. At the end of the five-year suspension, Shelton must satisfy numerous conditions before he will be eligible for reinstatement.

Beverly Berniece Cook – 21 DHC 4

Cook, of Murphy, pled guilty in 2019 to failing to file her North Carolina income tax returns for 2014, 2015, and 2016. She also failed to timely file and pay her federal income tax obligations for the same time period. The DHC suspended her license for three years. The suspension is stayed for three years upon enumerated conditions, including quarterly reporting to the Office of Counsel by an approved therapist, prohibition of gambling, and remaining current in her installment agreement with the IRS.

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 January 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

In August 2019, Susan Lynch of Raeford was suspended for five years for failing to communicate with her clients, failing to disclose a conflict of interest, making false statements, and engaging in conduct prejudicial to the administration of justice. After serving 18 months of active suspension, Lynch petitioned for a stay of the balance of her suspension. Her petition was granted. The State Bar did not contest the petition because Lynch satisfied all conditions for a stay.

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 entered preliminary injunctions prohibiting **Jonathan H. Metcalf** of Charlotte and **David M. Godwin** of Wilmington 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 2020. 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 the 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. The hearing has been continued and the case is stayed until June 1, 2021, so that the State Bar can amend its complaint to include new allegations of misconduct that the Grievance Committee referred to the DHC at the January 2021 meeting.

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. Hearing has not been scheduled.

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.

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. The hearing took place on February 5 and March 30, 2021. The DHC announced its decision to disbar Sherman, but the final order has not been entered.

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, collected an excessive fee, and entered into a business transaction with the client. It is also alleged that Regan misappropriated entrusted funds, did not properly maintain and disburse entrusted funds, and did not maintain required trust account records. He is enjoined from handling entrusted funds and from serving in any fiduciary capacity. Hearing has repeatedly been continued and is now scheduled to occur June 8-10, 2021.

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 is scheduled for May 25, 2021.

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 – 20 DHC 13

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. Reed's answer was stricken because she did not respond to discovery requests. A hearing on appropriate discipline is scheduled for the week of June 14, 2021.

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 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. The DHC entered a default order establishing the allegations of misconduct and the rule violations. Hearing on appropriate discipline 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. Block did not file a responsive pleading. The State Bar's motion for default judgment is pending. Hearing has not been scheduled.

Karen C. Wright – 21 DHC 2

It is alleged that Wright, of Shelby, misappropriated 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, 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, did not send required annual accounts to clients, did not properly supervise staff, and provided inaccurate information in the disciplinary process and to a client. Hearing has been scheduled for December 2 and 3, 2021.

Lonnie P. Merritt – 21 DHC 5

It is alleged that Merritt, of Wilmington, had a sexual relationship with a client resulting in a conflict of interest and engaged in conduct involving dishonesty. Hearing is expected to be scheduled for a date after August 1, 2021.

Frank Chut, Jr. – 21 DHC 6

It is alleged that Chut, an Assistant United States Attorney in Greensboro, misled a witness testifying before a grand jury by informing the witness that she was not the target or subject of the investigation when Chut knew that the witness had some level of involvement in the criminal activity and, in fact, later presented evidence against the witness before a grand jury resulting in a criminal indictment. Hearing has not been scheduled.

Jim Melo – 21 DHC 7

It is alleged that for three years, Melo, of Raleigh, withheld funds from his employees' paychecks for federal taxes but instead used the funds for his own purposes. Hearing is expected to be scheduled between November 6 and December 3, 2021.

Nicholle T. Phair – 21 DHC 8

It is alleged that Phair, of Sanford, certified false information on renewals of her mediator certification to the Dispute Resolution Commission, directed improper *ex parte* communication to a court, filed a frivolous motion to recuse a judge, and made misleading representations to a judge. Hearing has not been scheduled.

H. Bright Lindler – 21 DHC 9

It is alleged that Lindler, of Rockingham, did not file and pay personal income taxes and did not remit employees' withholding taxes. It is also alleged that Lindler settled a workers compensation case without his client's permission and retained the settlement funds for payment of expenses when the client declined to communicate with him. 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 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 April meeting.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed 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 March 10, the Supreme Court dismissed her appeal and denied her petition for discretionary review.

Pending Appeals

NC State Bar v. Richard Polidi – 14 CVS 0122

In January 2014, Polidi, of Wake County, entered into a consent injunction freezing his trust account. In July 2014, Polidi surrendered his license to the Wake County Superior Court and was disbarred. In October 2020, the court entered an order disbursing the funds in Polidi's trust account. Polidi gave notice of appeal. Polidi has received two extensions of time to serve a proposed record on appeal. The court ordered him to serve his proposed record on or before April 9, 2021.

TRUST ACCOUNT COMPLIANCE PROGRAM

Sixty-nine lawyers have completed the TAC Program since its inception. Three lawyers accepted offers to participate in the TAC Program after the January 2021 Quarterly Meeting. Leonor currently supervises forty participants. Leonor 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 13 new files this quarter. There are 16 files on the Committee's April 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 courts on behalf of incarcerated defendants. The complaint has been filed and served. Alexander has not filed an answer or responded to discovery requests.

Prepaid Legal Services Plan Registration

The State Bar received one proposed plan this quarter, which is under review.

The State Bar reviewed the resubmitted initial registration statement form for **Debt Cleanse (20PP03)** and determined that the plan could not be registered.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

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 alleged 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 Deputy Commissioner dismissed the claim against the State Bar with prejudice on February 9, 2021. The Attorney General 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. In this claim, Arroyo alleges that the State Bar failed to "stop, act or prosecute" Daniel Zamora. The Full Industrial 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 Industrial 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 Industrial 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.

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. Kirk appealed to the Superior Court. The State Bar's motion to dismiss that appeal is pending. 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.

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.

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 Leonor 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.

Byrd v. North Carolina State Bar (NC Industrial Commission). This is a purported tort claim. Byrd, an inmate, alleges that the State Bar did not impose appropriate professional discipline against multiple lawyers who played a role in the criminal case for which Mr. Byrd is incarcerated. The State Bar will move to dismiss the claim. The Attorney General represents the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 19 claims on the agenda for the Board's April 15 meeting. There are three lawsuits pending in superior court seeking reimbursement from a disbarred lawyer for payments made by the CSF.

Disbursement Cases

This quarter, the OOC drafted two motions to disburse or escheat \$23,858.55 from the enjoined accounts of suspended or disbarred lawyers.

Trusteeships

Trustees were appointed to wind down the practices of deceased attorneys **Larry Economos** of Cary, **John P. McNeill** of Cary, **Daniel A. Manning** of Williamston, **Carl F. Parrish** of Winston Salem, **Randy D. Duncan** of Hickory, **Michael P. Hugo** of Raleigh, and **Richard B. Faulkner** of Greenville. Trustees were also appointed to wind down the practices of unavailable attorneys **Daniel J. Park** of Elkin, **Robb D. Hill** of Asheville, and **Kenneth G. Gunter** of Raleigh.

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 litigation in the state and federal courts.

Pending Appeals

NC State Bar v. Richard Polidi – 14 CVS 0122

In January 2014, Polidi, of Wake County, entered into a consent injunction freezing his trust account. In July 2014, Polidi surrendered his license to the Wake County Superior Court and entered into a consent order of disbarment. In October 2020, the court entered an order disbursing the funds in Polidi's trust account. Polidi gave notice of appeal. Polidi has received two extensions of time to serve a proposed record on appeal. The court has ordered him to serve his proposed record on or before April 9, 2021. (Same as above.)

PERSONNEL

Lori Garner joined OOC on April 5 as Trust Account Compliance Investigator. Lori has a long history of service as IRS special agent, senior analyst, computer investigative specialist and instructor. She holds a Bachelor of Science degree in Accounting from Elon University.

Bobby Powell will join OOC on April 12 as Client Security Fund Investigator. Robert will replace Randy Ross, who was the CSF investigator for 11 years. Robert has held numerous positions with the Raleigh Police Department since 1993, including over 10 years as Sergeant with the Financial Crimes Unit. He holds a Bachelor of Science degree from the University of North Carolina and a where he earned a Master of Public Administration degree from NC State University.

Fern Simeon has announced her intention to retire this summer after 36 years with the State Bar. It is difficult to imagine the State Bar without Fern!

Maria Brown will take over Fern's role staffing Subcommittee II, in which she will handle a high volume of grievances and will no longer handle DHC cases. She will continue to staff the Client Security Fund.

MISCELLANEOUS

Josh continues to teach legal research and writing at Campbell Law, likely because they can't find anyone else to do it. An article he wrote on ephemeral messaging apps and discovery will appear in the next edition of the *Campbell Law Review*. Josh also regularly presents at various CLEs and will serve as a Mock Trial judge this spring. He anticipates a record year in blueberry production on his farm.

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.

Leonor chairs the 10th 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, which for the last year has involved lecturing into a laptop camera in an empty room. Carmen is Immediate Past President of the Wake County Bar Association and serves on many WCBA committees. She continues to serve as the OOC's liaison to the judiciary, speaking regularly with judges and Judicial Standards Commission staff. She frequently presents at CLEs and as a guest lecturer for law school classes. She is 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. Carmen is also assisting with the Diversity and Inclusion Subcommittee of the Issues Committee.

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 previously scheduled for spring 2020 will 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 has begun volunteering with Read and Feed, which is an after-school literacy program that provides meals, tutoring, and books to children living in underserved neighborhoods in Wake County. Jennifer is currently serving on the Wake County Bar Association's History Committee. Jennifer also staffs the LAMP Committee.

Savannah and Cameron staff the Issues Committee subcommittee studying secured leave.

Savannah staffs the Authorized Practice Committee, handling all issues involving prepaid legal services plans. She also handles the appointment and supervision of trustees to wind down the law practices of deceased, disbarred, suspended and missing lawyers.

Maria staffs the Client Security fund.

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