

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
OCTOBER 8, 2021**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the third quarter of 2021 (through September 17, 2021), ACAP staff responded to 1,383 phone calls from members of the public and placed 102 calls to lawyers. Staff also responded to 1,837 emails from members of the public and from attorneys and responded to 487 letters from inmates. Intake logged 2,936 entries through September 17.

The State Bar opened 95 requests for fee dispute resolution through September 17.

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 files were opened. As of September 24, 2021, 751 grievance files had been opened.

As of October 1, 1,257 grievances were pending. One hundred eighty-five grievances were stayed. Thirty-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 174 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 865 files in which no recommendation has yet been made, 146 were more than six months old. In the third quarter of 2021, 263 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 third quarter of 2021.

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.

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 The Court of Appeals issued an unpublished opinion affirming the rule violations but remanding to the DHC for additional findings regarding the appropriate discipline. Hearing on remand was held on September 28, 2021. The DHC announced its decision to impose a reprimand but the order of discipline has not yet been entered.

Daniel Flint – 19 DHC 4

Flint, formerly of Charlotte, was convicted in federal court in California of felony entering an airport area in violation of security requirements and was sentenced to fourteen months in prison. The hearing panel found 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. Flint was disbarred.

Christie Bynum Smith – 20 DHC 12

Smith, of Greensboro, did not verify wiring instructions in a real estate transaction, resulting in the sellers' proceeds being wired to a fraudulent account, and made false representations to the Grievance Committee. The DHC censured her.

Lonnie P. Merritt – 21 DHC 5

Merritt, of Wilmington, had a sexual relationship with a domestic client. Merritt was suspended for one year.

Angela Beeker – 21 DHC 19

Beeker, of Hendersonville, did not promptly disburse entrusted funds, did not diligently complete disbursements and the related representations, did not send annual accountings to clients, did not ensure funds were properly maintained in trust, and did not conduct required monthly and quarterly reconciliations of three trust accounts. Beeker was suspended for three years. The suspension is stayed upon her compliance with enumerated conditions.

Completed Grievance Noncompliance Actions before the DHC

No grievance noncompliance actions were completed in the DHC this quarter.

Completed Surrenders to the Council

Roydera D. Hackworth – 21 BCS 1

Hackworth, currently of Wilmington and formerly of Greensboro, was suspended by the DHC in 2012. After the effective date of the suspension, Hackworth engaged in the unauthorized practice of law, forged the name of attorney Omowunmi Odedere to immigration petitions filed with the Department of Homeland Security, and held herself out to clients as being eligible to practice law. Hackworth pleaded guilty in federal court to one count of filing a fraudulent naturalization application and notice of representation, a crime in violation of 18 U.S.C.A. § 1546(a).

Completed Discipline and Disability Proceedings in the Courts

Daniel R. Green of Hickory surrendered his license and was disbarred by the Buncombe County Superior Court. Green was convicted of disseminating obscene materials to a minor under 16, taking indecent liberties with a minor, contributing to the delinquency of a minor, and giving alcoholic beverages to an underage person.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were entered this quarter.

Transfers to Disability Inactive Status

David G. Belser of Saluda was transferred to disability inactive status by the chair of the Grievance Committee.

Interim Suspensions

No orders of interim suspension were entered this quarter.

Completed Petitions for Reinstatement/Stay - Uncontested

In July 2020, **Craig Blitzer** of Reidsville was suspended for four years, effective retroactively to August 3, 2017, when an interim suspension of his license was entered. As the elected District Attorney for Rockingham County, Blitzer misused state resources, did not provide discovery in criminal cases, and was convicted of misdemeanor failure to discharge duties. After serving four years of active suspension, Blitzer filed a petition for reinstatement. The State Bar did not contest the petition because Blitzer had substantially satisfied the conditions of reinstatement. An order of reinstatement was entered on August 19.

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 A. Trapp** of Charlotte and **Kelly R. Routh** of Charlotte from handling entrusted funds.

PENDING DISCIPLINE AND DISABILITY CASES

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.

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 accounting rules. The hearing was continued and the case is stayed so that the State Bar can amend its complaint to include additional 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.

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.

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.

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. Entry of default was entered on May 24.

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. Default has been entered. The DHC hearing will address only the appropriate discipline. Hearing has not been scheduled.

Frank Chut, Jr. – 21 DHC 6

It is alleged that Chut, of Greensboro and an Assistant United States Attorney, 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 later presented evidence against the witness before a grand jury resulting in a criminal indictment. Hearing is scheduled for October 26.

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 January 4 and February 4, 2022.

Nicolle 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 is scheduled for November 8.

H. Bright Lindler – 21 DHC 9

It is alleged that Lindler, of Rockingham, did not file and pay personal income taxes and withheld funds from employees' paychecks but did not remit them to taxing authorities. 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 is scheduled for September 30.

Thomas O. Harper, III – 21 DHC 11

It is alleged that Harper, of Atlanta, engaged in the unauthorized practice of law, did not file federal income tax returns from 2013 to 2017, and committed criminal acts that reflect adversely on his fitness as a lawyer. Hearing is expected to be scheduled for the week of March 21, 2022.

Camille Hill – 21 DHC 13

It is alleged that Hill, of Asheville, diverted a fee that belonged to her law firm employer to herself. Hearing is expected to be scheduled between January 31 and February 18, 2022.

Gregory A. Bullard – 21 DHC 14

It is alleged that Bullard, of Pembroke, withheld taxes from employee paychecks but did not remit the funds to the IRS from 2007 and 2009 through 2014. It is also alleged that Bullard did not timely file and pay his federal and state personal income taxes for 2010 through 2016 and 2018. Bullard has been a district court judge since January 2021. Hearing is scheduled for November 16.

Christopher D. Lane - 21 DHC 15

It is alleged that Lane, of Clemmons, assisted out-of-state entities in the unauthorized practice of law, shared fees with nonlawyers, made false or misleading statements about his services, engaged in conduct involving dishonesty or misrepresentation, neglected and did not communicate with a client, and did not properly supervise nonlawyer assistants. Hearing has not been scheduled.

Mark D. Lackey – 21 DHC 16

It is alleged that Lackey, of Shelby, did not reconcile his trust account and committed multiple other trust accounting violations. Hearing is expected to be scheduled between March 28 and April 15, 2022.

Penny K. Bell – 21 DHC 17

It is alleged that Bell, of Clinton, gave false testimony in a remand proceeding of a *Batson* claim regarding her knowledge of the assistant district attorney's history and practice in exercise of peremptory challenges. Hearing has not been scheduled.

Meg Wood – 21 DHC 18

It is alleged that Wood, of Charlotte, assisted out-of-state entities in the unauthorized practice of law, shared fees with nonlawyers, made false or misleading statements about her services, engaged in conduct involving dishonesty or misrepresentation, neglected and did not communicate with clients, and did not properly supervise nonlawyer assistants. Hearing has not been scheduled.

Cindy C. Huntsberry – 21 DHC 20

It is alleged that Huntsberry, of Smithfield, neglected client matters, did not keep clients informed about their cases, made misrepresentations to clients regarding the status of their cases, did not promptly return client files, and did not respond to the Grievance Committee in three grievances. The DHC transferred Huntsberry to disability inactive status. The disciplinary action is stayed until Huntsberry is returned to active status.

Lloyd T. Kelso – 21 DHC 21

It is alleged that Kelso, of Gastonia, attempted to have sexual relations with a client, provided financial assistance to a client, and revealed confidential information. Hearing has not been scheduled.

Patricia W. Harvey – 21 DHC 22

It is alleged that Harvey, of Asheville, engaged in dishonest and criminal conduct by failing to file and failing to pay various state and federal taxes over a period of at least five years. Hearing has not been scheduled.

Mark A. Key – 21 DHC 23

It is alleged that Mark Key, of Lillington, engaged in courtroom misconduct that resulted in a mistrial, had a sexual relationship with a client, withheld taxes from employee paychecks and did not remit those funds to taxing authorities, mishandled entrusted funds, engaged in mortgage fraud, and was delinquent in paying substantial federal and state taxes in his personal and professional capacities. Hearing has not been scheduled.

Kelly R. Routh – 21 DHC 24

It is alleged that Routh, of Charlotte, diverted a cash payment received from a client to herself rather than to her law firm employer, which was entitled to the fee. 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

The DHC suspended Smith, of Charlotte, for two years in June 2018. 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 demonstrating compliance with enumerated conditions. Smith did not petition for a stay. He petitioned for reinstatement from suspension. 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 have submitted affidavits of surrender for the Council's consideration at the October meeting.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed Appeals

No appeals of discipline and disability cases 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. The Supreme Court denied Entzminger's petition for discretionary review on August 12, 2020. On remand, the court again suspended Entzminger for two years but allowed him to be immediately eligible for a stay upon compliance with enumerated conditions, including payment of costs. Entzminger appealed.

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. Springs filed a petition for writ of *certiorari* to the U.S. Supreme Court.

NC State Bar v. 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 panel found that Megaro entered into a contract with the clients when he knew they did not 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. The DHC suspended Megaro’s license for five years. Megaro may petition for a stay after serving three years active suspension upon satisfaction of all enumerated conditions, including the requirement that he reimburse \$250,000.00 to the clients. Megaro filed notice of appeal on May 24. The transcript has not yet been completed.

NC State Bar v. Cabell Regan – 19 DHC 25

Regan, of Pittsboro, was disbarred by the DHC in July 2021. The DHC concluded 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, entered into a business transaction with the client, misappropriated the client’s entrusted funds, did not properly maintain and disburse entrusted funds, and did not maintain required trust account records. He remains enjoined from handling entrusted funds and from serving in any fiduciary capacity. Regan gave notice of appeal on September 22.

TRUST ACCOUNT COMPLIANCE PROGRAM

Seventy-five lawyers have completed the TAC Program since its inception. Nine lawyers accepted offers to participate in the TAC Program after the July 2021 Quarterly Meeting. Leanor currently supervises fifty participants. Leanor also monitors two 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 11 files on the Committee’s July 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 Court entered a permanent injunction on June 22, 2021.

N.C. State Bar v. Valerie Arroyo (Wake County Superior Court). At the April 2021 meeting, the Executive Committee authorized counsel to pursue injunctive relief against Valerie Arroyo, who has filed a number of tort claim actions and lawsuits on behalf of other parties. The complaint has been filed. Arroyo filed an answer and purported counterclaim. The State Bar’s motion to dismiss the counterclaim is pending.

N.C. State Bar v. Brett Allen Fox (Wake County Superior Court). At the April 2021 meeting, the Executive Committee authorized counsel to pursue injunctive relief against Brett Allen Fox. Fox is a law school graduate who did not pass the bar exam but has held himself out to employers and prospective employers as a licensed attorney. The complaint has been filed and served.

Prepaid Legal Services Plan Registration

The State Bar received and reviewed four proposed plans submitted during the third quarter of 2021. Three of the proposed plans were registered. The remaining proposed plan was not accepted for registration and has resubmitted an initial registration statement form, which is under review.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

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 and Derek Olivaria v. Southwood Realty et al (US District Court EDNC). Arroyo alleged that she and her co-plaintiff were wrongfully evicted and that the government defendants, including the State Bar, Josh Stein, the Department of Justice, judges, and the courts, failed to assure that the lawyers and judges involved in the eviction action followed the law and the rules of ethics. The court dismissed the complaint on its own motion following frivolity review. Arroyo has appealed to the Fourth Circuit.

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 OOC complied with that demand, sending Exum a written response. Exum alleges that the written response was unsolicited, that it contained false and unfounded information about him, and that it served no purpose other than to embarrass and harass him. The OAH dismissed Exum’s claim. He petitioned the Wake County Superior Court for judicial review. The Attorney General represents the State Bar.

Kareem Abdullah Kirk v. North Carolina State Bar Grievance Committee (NC Office of Administrative Hearings). This is the second claim Kirk, aka Kareem Abdullah Kirk-Bey, has filed against the State Bar at OAH. In this claim, Kirk again alleges that the Grievance Committee did not properly address a grievance. OAH dismissed the claim, concluding that it does not have subject matter jurisdiction. The Wake County Superior Court denied Kirk’s petition for judicial review. Kirk gave notice of appeal to the North Carolina Court of Appeals. Kirk has not perfected his appeal and the deadline to do so has passed. The Attorney General represents the State Bar.

Henry Byrd v. NC State Bar and State of North Carolina (NC Industrial Commission). In March 2021, Henry Byrd mailed to the State Bar a form claim for damages under the Tort Claims Act. He did not properly file and serve the document and therefore did not actually commence a tort claim. He alleged that the defendants were under “an affirmative legal nondelegable duty to provide the plaintiff with an affirmative standard of care circumscribed by North Carolina Rules of Professional Conduct...” and recited that his allegations were continued on attached pages, but they were not. He indicated that he was proceeding under the doctrines of equitable estoppel and promissory estoppel. The Attorney General undertook to represent the State Bar if Byrd successfully commenced a tort claim action. On June 21, Byrd mailed to the State Bar a notice that he is withdrawing the purported tort claim and will instead file a §1983 action against the State Bar in the US District Court EDNC on a theory of “supervisory liability.” If he does file a federal lawsuit, the OOC will represent 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 NCBA. Summonses have not issued. On August 30, 2021, the Magistrate Judge issued a recommendation to the District Court Judge that the case be dismissed. The recommendation carried a deadline for Hankins to file an objection of September 13. As of September 15, no objection had been filed according to the docket on PACER. 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 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 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 2018, Livingston filed a lawsuit against 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 2019, the federal court granted the State Bar defendants' motion to dismiss for lack of subject matter jurisdiction. In March 2019, Livingston filed this nearly identical action 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.

Christopher Livingston v. NC State Bar, Susannah Cox and Katherine Jean (U.S. District Court EDNC). On June 21, 2021, Christopher Livingston filed this lawsuit in the US District Court EDNC against the State Bar, counsel Katherine Jean and deputy counsel Susannah Cox. He purports to assert claims under 42 U.S.C. §§ 1983 and 1989 for alleged violations of his speech, petition, due process and equal protection rights under the United States Constitution; his freedom of speech, open courts, law of the land and equal protection rights under the North Carolina Constitution; and alleged "malicious administrative prosecution." He alleges that the State Bar did not discipline lawyers who he alleged committed violations of the RPCs against him, has a practice and official policy of arbitrarily disciplining some lawyers and not disciplining other lawyers, selectively prosecutes solo practitioners, is overfunded and its staff is underworked; that Jean and Cox violated the RPCs by requiring him to respond to letters of notice; and that Cox should have dismissed a grievance filed against him. The OOC represents the defendants.

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. On June 1, the deputy commissioner dismissed the claim with prejudice. The Attorney General represented the State Bar.

Client Security Fund Claims/Subrogation Cases

There are 15 claims on the agenda for the Board's October 7 meeting. There is one lawsuit pending in superior court, seeking reimbursement from a disbarred lawyer for payment made by the CSF.

Disbursement Cases

This quarter, the OOC attended two hearings on motions to disburse and obtained two orders to disburse funds totaling \$23,858.55 from the accounts of suspended or disbarred lawyers. The State Bar located one rightful owner of \$421.99 that would otherwise have been escheated.

Trusteeships

Trustees were appointed to wind down the practices of deceased attorneys **Edward D. Seltzer** of Charlotte, **John V. Matthews, Jr.** of Hertford, and **Clarissa Halks** of Durham.

The OOC petitions the Superior Court in the districts where deceased, disbarred, disabled or missing lawyers practiced to appoint trustees to wind down the lawyers' practices. 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. Thirty-two trustees appointed in 2020 and 2021, as well as others appointed in previous years, remain active and are assisted by the OOC.

APPEALS IN OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Completed 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. He did not comply with the court's order to serve his proposed record on or before April 9, 2021. The day before the State Bar's motion to dismiss the appeal was scheduled to be heard, Polidi withdrew his appeal. The Court dismissed the appeal.

Pending Appeals

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

PERSONNEL

Andi Koretsky's last day with the State Bar was September 22, 2021. Andi started with the Bar in January 2020 as the afternoon receptionist. In August 2020, Andi joined ACAP as an administrative assistant. Andi was patient and kind with callers, even the most difficult ones, and was always willing to help. Andi accepted a position as a laboratory technician, utilizing her Biology degree.

Courtney Pope's last day with the State Bar was September 2, 2021. Courtney joined the State Bar as an ACAP public liaison in 2018. She received frequent praise from members of the public and lawyers for her commitment to help and friendly attitude, like this one: "Much appreciation for following through and getting this finished. You handled this professionally and tactfully. Don't know what I would have done without your help. Thank God for people like you and help from the NC State Bar." Courtney moved to Florida.

Sylvia Santana joined the OOC on September 13 as an ACAP public liaison. Previously, Sylvia was a case manager at Warren Correctional Institution and held multiple positions over 10 years with the NY State Department of Corrections. Sylvia brings to ACAP her skills in case management, crisis intervention, motivational interviewing and intake. Sylvia holds a BA in criminal justice from Marist College.

Phillip McWilliams joined the OOC as our newest paralegal in August. Phillip started at the State Bar in 2016 in the CLE department. Before he came to the State Bar, Phillip was a student services assistant at Austin Community College in Austin, Texas. Phillip holds an Associate of Arts degree in foreign language from Austin Community College.

Kelley DeAngelus joined the OOC as a deputy counsel in August. Kelley was an assistant public defender in Wake County for ten years. Before that, she worked for 6 years at the Center for Death Penalty Litigation, where she represented indigent clients in capital sentencing and state and federal post-conviction litigation. Kelley received her BA from the University of Dayton and her JD from the University at Buffalo Law School.

Tom Crosby joined the OOC as a deputy counsel in September. He comes to us from the US Attorney's Office in Raleigh, where he was an Assistant United States Attorney. Before that, Tom was an assistant district attorney in Durham. He received his BA from the University of Florida and his JD from Duke University School of Law.

MISCELLANEOUS

Jennifer volunteers as a judge with Raleigh's Capital Area Teen Court program, which serves the dual purposes 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 Teen Court hearings. Jennifer serves on the Wake County Bar Association's History Committee. She also staffs the State Bar's LAMP Committee.

Liza oversees the rule amendment process, including formatting and updating the State Bar's administrative rules, coordinating the publication of rule amendments to the Council and the profession, and facilitating the submission of rule amendments to the Supreme Court and the Office of Administrative Hearings. She also assists Brian and Carmen in staffing the Ethics subcommittee studying the potential inclusion of anti-discrimination language in the Preamble and the Rules of Professional Conduct.

Savannah is an Adjunct Professor of Legal Research and Writing at Campbell University. She staffs the Authorized Practice Committee, handling all issues involving prepaid legal services plans and handles the appointment and supervision of trustees to wind down the law practices of deceased, disbarred, suspended and missing lawyers.

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

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.

Maria staffs the Client Security Fund.

Carmen is an Associate Adjunct Professor of professional responsibility at UNC Law and Immediate Past President of the Wake County Bar Association, where she serves on many committees. She continues to serve as the OOC's liaison to the judiciary, speaking regularly with judges and Judicial Standards Commission staff. In August, she gave a presentation at the National Organization of Bar Counsel annual conference. She is staffing three Ethics subcommittees: the subcommittee on the proposed opinion re: communications with judges, the subcommittee studying potential amendment to Rule 1.19, and the subcommittee studying the potential inclusion of antidiscrimination language in 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.

Leonor chairs the 10th JD/WCBA Professionalism Committee and continues to serve on the NCBA Professionalism Committee for which she serves as vice chair. She also staffs the PMBR Committee and the Diversity and Inclusion Subcommittee of the Issues Committee. Leonor often presents at CLE programs on the topic of trust account management and recently guest lectured at Brian Oten's Campbell Law School Professional Responsibility class.

Alex regularly teaches CLEs on ethics and technology. As the most technologically adept person in OOC, he 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.

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