

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
OCTOBER 12, 2022**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the third quarter of 2022, ACAP staff responded to 2,034 phone calls from members of the public and placed 78 calls to lawyers. Staff also responded to 1,046 emails from members of the public and attorneys and responded to 579 letters from inmates. In addition, there were 11 translations completed of fee dispute petitions submitted in Spanish. Intake logged 4,170 entries this quarter.

The State Bar opened 124 requests for fee dispute resolution during the first quarter, all of which were assigned to the two State Bar facilitators.

GRIEVANCES

In 2018, 1,247 grievance files were opened. In 2019, 1,254 grievance files were opened. In 2020, 927 grievance files were opened. In 2021, 986 grievance files were opened. As of October 10, 1,061 grievance files have been opened in 2022.

As of October 10, 1,577 grievances were pending. One hundred ninety-eight grievances were stayed. Thirty-one pending files were in judicial district grievance committees or had been returned by district grievance committees within the past 30 days. The OOC had made its recommendation in 83 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 1,265 files in which no recommendation has yet been made, 259 were more than six months old. In the third quarter of 2022, 248 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 2022.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

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

Timothy Gunther – 22 DHC 11

Gunther, of Raleigh, falsely held himself out as eligible to be elected as district court judge in a district in which he did not reside; falsely stated his residential address on a Voter Registration Application that he signed under penalty of perjury; falsely stated his residential address on a Notice of Candidacy form that he swore/affirmed to be true; used his newly-but-falsely-established voter registration address to prove residency in District 10F to Wake County Board of Elections personnel and to induce the Director of the Wake County Board of Elections to certify that he was a resident of District 10F; and changed his addresses in other records to further the appearance that he resided at an address at which he did not reside. The DHC suspended Gunther for two years.

Camille Hill – 21 DHC 13

Hill, of Asheville, failed to obtain her client’s written consent to a division of attorney’s fees between herself, her former law firm, and a lawyer at another firm, failed to advise her client that she could have remained a client of Hill’s former law firm before transferring her client’s case to another lawyer, made misrepresentations to the State Bar during the grievance process, collected a clearly excessive fee, and failed to deposit disputed mixed funds into a trust account until the dispute regarding those funds was resolved. The DHC suspended Hill for one year. The suspension is stayed for two years with the requirements, among others, that Hill obtain a practice monitor and complete additional CLE related to trust account management.

Thomas C. Flippin – 22 DHC 15

Flippin, of Elkin, improperly disbursed funds from his trust account, did not conduct required trust account reconciliations, did not always identify the client on trust account checks and deposit slips, did not maintain sufficient records to identify the owners of entrusted funds in his trust account, and did not timely disburse funds from his trust account. Flippin’s law license was suspended for two years. The suspension is stayed for two years upon his compliance with enumerated conditions.

Kelly R. Routh – 21 DHC 24

Routh, of Charlotte, diverted to herself cash payment of a fee to which her law firm employer was entitled. The DHC suspended her for five years. She will be eligible to apply for a stay after serving one year of active suspension.

Completed Grievance Noncompliance Actions before the DHC

Brooke M. Crump – 22 DHC 24N

Crump, of Lake Tillery, failed to produce documents and other information responsive to a subpoena for cause audit issued by the Chair of the Grievance Committee. At the conclusion of a hearing on the DHC’s order to show cause why her license should not be suspended for grievance non-compliance, the Chair of the DHC determined that Crump was non-compliant, had no justifiable basis for being non-compliant, and gave her an additional five days to comply fully with the subpoena. When Crump did not fully comply within five days, the Chair suspended her law license.

Completed Surrenders to the Council

Peter C. Anderson – 22BCS 3

Anderson, of Charlotte, misappropriated \$54,024.67 in legal fees from the settlement of a personal injury case that should have been delivered to his former law firm. Anderson surrendered his law license and was disbarred by the Council at the July 2022 quarterly meeting.

Completed Discipline and Disability Proceedings in the Courts

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

Orders of Reciprocal Discipline

Alexander Zolfaghari – 21G0387

Zolfaghari, of Arizona, in cases involving numerous clients, neglected and abandoned clients' cases, did not refund unearned fees, made false statements during the disciplinary investigation, did not abide by court orders, did not appear for court hearings, closed his law practice without notifying clients, engaged in intentional dishonest conduct, and engaged in conduct prejudicial to the administration of justice. Zolfaghari's license was suspended by the Supreme Court of Arizona for five years. The Grievance Committee imposed reciprocal discipline, suspending Zolfaghari's North Carolina license for five years.

David Harley – 22G0156

Harley, of South Carolina, was reprimand by the Supreme Court of South Carolina. He did not promptly render an accounting of entrusted funds, neglected a client's case, did not respond to a regulatory authority, and engaged in conduct prejudicial to the administration of justice. The Grievance Committee imposed a reciprocal reprimand.

Transfers to Disability Inactive Status

Sarah E. Salton was transferred to disability inactive status this quarter.

Interim Suspensions

No lawyers were placed on interim suspension this quarter.

Completed Petitions for Reinstatement/Stay - Uncontested

In re Petition for Reinstatement of Steven J. Allen—22 BSR 2

Allen, of Hendersonville, was suspended for one year by the DHC in 2020 for having sexual relations with a domestic client. After demonstrating that he had complied with the conditions for reinstatement, he was reinstated on August 19.

Completed Petitions for Reinstatement/Stay - Contested

North Carolina State Bar v. Kenneth F. Irek – 92 DHC 17

Irek, of North Hills, California, was disbarred by the DHC in 1993 for misappropriating entrusted funds. The DHC denied his 2022 Rule 60 motion seeking to vacate the disbarment order. His appeal is pending.

Daniel S. Rufty – 20 DHC 17R

Rufty, of Charlotte, was suspended for five years. The DHC found that Rufty committed criminal acts, aided in the criminal practice of debt adjusting, did not supervise his nonlawyer assistants, made false or misleading statements about his services, and engaged in conduct involving dishonesty or misrepresentation. The order of discipline provided that, after he served six months of the suspension, Rufty could petition for a stay of the balance upon demonstrating compliance with enumerated conditions. On September 1, the DHC concluded that Rufty did not comply with the enumerated conditions and denied his petition for stay.

Completed Motions to Show Cause

Meredith P. Ezzell, 18 DHC 42_SC2

In April 2019, the DHC suspended Ezzell's license for three years for neglecting and failing to communicate adequately with her clients, charging fees for services not performed, failing to refund unearned fees, allowing her nonlawyer paralegal to provide legal services, failing to properly maintain trust account records, and engaging in conduct prejudicial to the administration of justice. The suspension was stayed for three years on enumerated conditions. The State Bar alleged that Ezzell did not comply with the conditions and moved to activate the suspension. On September 9, the DHC entered an order lifting the stay and activating the suspension.

TROs and Preliminary Injunctions

The Wake County Superior Court entered preliminary injunctions prohibiting **Charles M. Kunz** of Durham and **Donald E. Britt, Jr.** of Wilmington 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 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, had an improper sexual relationship with a client, and perjured himself while being deposed by the State Bar. Hearing was continued and has not been rescheduled.

George Rouco – 20 DHC 23

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. 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 to a grand jury resulting in a criminal indictment of the witness. The DHC stayed the proceedings so the State Bar can investigate additional allegations. Chut requested review by a grievance review panel.

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 for 2007 and 2009 through 2014 and 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. The State Bar recently filed an amended complaint, and Bullard filed an amended answer. Hearing has not been rescheduled.

Penny K. Bell – 21 DHC 17

It is alleged that Bell, of Clinton, gave false testimony during remand of a *Batson* claim regarding what she described as the assistant district attorney's history and practice in exercise of peremptory challenges, and made false statements to the Grievance Committee. Hearing was continued and is scheduled for February 8, 2023.

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 improperly revealed confidential information. Hearing is scheduled for November 7-8.

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 is scheduled for November 28-December 2.

Michael DeMayo – 22 DHC 1

Phase one of the hearing was completed on August 3-4. The panel found that DeMayo engaged in dishonesty, fraud, deceit, or misrepresentation in his statements to a departing associate about the content of DeMayo's call with a client who chose to be represented by the departing associate. Phase two, to determine appropriate discipline, is scheduled for October 26.

Paris Peppers – 22 DHC 2

It is alleged that Peppers, of Henderson, while representing two of her cousins, made false promises in order to defraud them out of property inherited from their grandmother, did not comply with discovery requests and other orders in a civil case her cousins brought against her, and made false representations to the Grievance Committee. The DHC stayed the proceedings so the State Bar can investigate additional allegations.

Brian R. Harwell – 22 DHC 3

The chair of the DHC entered an order of interim suspension of the law license of Brian R. Harwell of Mooresville. Harwell pled guilty to felony possession of methamphetamine, misdemeanor harboring a fugitive, and misdemeanor resisting a public officer in Iredell County Superior Court. It is alleged that Harwell also made one or more false statements to police officers regarding a client's whereabouts when the officers came to Harwell's home to serve a warrant for the client's arrest.

Willie R. Brooks, Jr. – 22 DHC 5

It is alleged that Brooks, of Monroe, did not conduct monthly and quarterly reconciliations and reviews of his trust account, disbursed more funds from his trust account for clients than he had in the trust account for the clients, did not maintain accurate identification of all funds in his trust account, improperly disbursed funds to himself and to others, did not deposit entrusted funds in a trust account, and improperly provided financial assistance to clients. Hearing is scheduled for November 15-16.

Allan R. Grimsley—22 DHC 6

It is alleged that Grimsley, of Nags Head, grossly mismanaged his trust account and misappropriated client funds. He is enjoined from handling entrusted funds. The DHC case is stayed so that the State Bar can amend its complaint to add an additional claim.

Richard T. Dail – 22 DHC 7

It is alleged that Dail, of Thomasville, misappropriated, did not properly maintain, and improperly disbursed entrusted funds, made a false statement to a client regarding entrusted funds, did not promptly complete disbursements, did not deposit entrusted funds into his trust account, did not conduct required trust account reconciliations and reviews, and did not maintain required trust account records. He is enjoined from handling entrusted funds. Dail was transferred to disability inactive status and the disciplinary action was stayed pending completion of the disability proceeding. Dail has been ordered to undergo a medical evaluation. Hearing on disability has not been scheduled.

Kenneth A. Free, Jr. – 22 DHC 8

It is alleged that Free, of Greensboro, embezzled entrusted funds he received as escrow agent. He is enjoined from handling entrusted funds. Hearing is scheduled for February 27, 28 and March 1, 2023.

Keisha M. Lovelace – 22 DHC 9

It is alleged that, while representing a client in a worker's compensation case, Lovelace, of Raleigh, did not act with diligence, did not communicate with or respond to communications from the tribunal, opposing counsel, and her client, and made misrepresentations to opposing counsel, to her client, and to the Grievance Committee. Hearing is scheduled for December 12-13.

J. Brent Garner – 22 DHC 10

It is alleged that Garner, of Rockingham, misappropriated, improperly disbursed, and did not properly maintain entrusted funds, did not conduct required trust account reconciliations and reviews, did not maintain required trust account records, did not respond to the State Bar's initial inquiries regarding a trust account NSF report, and made misrepresentations to the Grievance Committee. He is enjoined from handling entrusted funds. Hearing is scheduled for February 9 and 10, 2023.

Charles R. Gurley – 22 DHC 12

It is alleged that Gurley, of Goldsboro, grossly abdicated to staff his trust accounting obligations; mishandled entrusted funds, did not represent dozens of clients diligently, did not return unearned fees, delegated much of his law practice to staff without supervision, made misrepresentations to the Grievance Committee, did not provide information demanded by the Grievance Committee to such a degree that he was held in contempt of court and enjoined from practicing law, did not file

personal and business income tax returns, and did not pay taxes he owed for several years. The DHC granted the State Bar's motion for partial summary judgment on four of seven claims. Hearing is scheduled for December 8-9.

Michelle Congleton Smith – 22 DHC 13

It is alleged that Smith, of Raleigh, did not verify wiring instructions before wiring payoff funds in a refinance transaction. As a result, she wired the payoff to a fraudster. It is also alleged that she made multiple false statements to the Grievance Committee during its investigation of the incident. Hearing is scheduled for November 18.

Thomas C. Goolsby—22 DHC 14

It is alleged that Goolsby, of Wilmington, made false and misleading statements during an investigation by the Notary Enforcement Division of the Secretary of State's Office. The DHC case is stayed because Goolsby requested review by a grievance review panel.

Monica Savidge – 22 DHC 17

It is alleged that Savidge, of Southport, misappropriated entrusted funds, engaged in other mishandling of entrusted funds, and made misrepresentations to the Grievance Committee. She is enjoined from handling entrusted funds. Hearing is scheduled for April 27-28, 2023.

Jonathan Charleston – 22 DHC 16

It is alleged that Charleston, of Fayetteville, engaged in improper *ex parte* communications with a superior court judge and did not disclose material information to the court during those communications. The DHC case is stayed because Charleston requested review by a grievance review panel.

Valerie Queen – 22 DHC 18

It is alleged that Queen, of Raleigh, did not act with diligence or communicate with two clients, did not respond when both clients filed fee disputes with the State Bar, and did not respond to the two grievances that resulted from her failure to respond to the fee disputes. Hearing has not been scheduled.

Ayeshinaye Smith – 22 DHC 19

It is alleged that Smith, of Raleigh, lacked competence to represent an elderly, incompetent client, was used to facilitate elder fraud, did not maintain an arms-length relationship with the third party who paid her legal fee, did not receive informed consent from her client, allowed the third party to interfere with her independent professional judgment, and failed in her duty to a client with diminished capacity. Hearing has not been scheduled.

Suzanne Nelson – 22 DHC 20

It is alleged that Nelson, of Raleigh, neglected numerous clients, did not respond to notices of mandatory fee dispute resolution, and did not respond to the Grievance Committee. Hearing has not been scheduled.

Martin Musinguzi – 22 DHC 21

It is alleged that Musinguzi, of New York, embezzled entrusted funds and did not respond to the State Bar. He is enjoined from handling entrusted funds. Hearing has not been scheduled.

Andre Hogan - 22 DHC 22

It is alleged that Hogan, of Fayetteville, did not reconcile his trust account, improperly disbursed entrusted funds, and did not respond to the Grievance Committee. 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. He did not petition for a stay. His petition for reinstatement from suspension is pending. Hearing was continued and has not been rescheduled.

In re David Shawn Clark - 22 BCR 2

Clark, of Hickory, was disbarred by the DHC in 2013 for having a sexual relationship with a client, filing a frivolous lawsuit to deter the client from revealing the relationship, coercing the client to sign a false affidavit denying the relationship, and engaging in three counts of obstruction of justice by, among other things, threatening his employee not to tell the truth about the relationship. Clark unsuccessfully petitioned for reinstatement in 2019. Hearing on his second petition for reinstatement was scheduled for October 25 but has been continued.

Christopher C. Peace – 22 RD 1

In November 2021, Peace was transferred to disability inactive status by the Grievance Committee. The order provided that he could apply for reinstatement after six months. Hearing on his petition to be reinstated to active status is scheduled for December 19.

Keith C. Booker – 22 BSR 1

In 2016, the DHC suspended Booker, of China Grove, for five years after finding that Booker violated multiple trust accounting rules, did not properly supervise his office staff, and severely

neglected clients' cases. The order of discipline provided that Booker could petition for reinstatement after five years upon compliance with enumerated conditions. Hearing on Booker's petition is scheduled for October 28.

Pending Motions to Show Cause

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

Pending Surrenders to the Council

No affidavits of surrender have been submitted for consideration by the Council as of the writing of this report.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed Appeals

NC State Bar v. Lonnie P. Merritt – 21 DHC 5

The DHC concluded that Merritt, of Wilmington, had a sexual relationship with a domestic law client and suspended his license for one year. He appealed. On September 22, the Court of Appeals affirmed the order of discipline in a published decision. Merritt's petition for discretionary review is pending.

NC State Bar v. Robert N. Weckworth, Jr. – 16 DHC 22

In October 2017, the DHC censured Weckworth of Greensboro. The DHC concluded that Weckworth communicated with a represented adverse party and had improper *ex parte* communications with a judge. In June 2019, the Court of Appeals issued an unpublished opinion affirming the order of discipline with respect to the rule violations but remanding to the DHC for additional findings with respect to the level of discipline and reconsideration of the discipline, if necessary, based on the additional findings. On remand, the DHC issued a reprimand. Weckworth appealed again. His brief was due October 7. Weckworth agreed to withdraw his appeal but has not yet done so.

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 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. The Court of Appeals affirmed in an unpublished opinion. Entzminger's petition for discretionary review is pending.

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 will be eligible to petition for a stay of the balance of the suspension after serving three years active suspension upon demonstrating compliance with enumerated conditions, including the requirement that he reimburse \$250,000.00 to the clients. Megaro appealed. All briefs have been filed. The Court of Appeals will decide the case without oral argument.

NC State Bar v. Kenneth Irek – 92 DHC 17

Irek, of North Hills, California, was disbarred by the DHC in 1993 for misappropriating entrusted funds. In January, Irek filed a Rule 60 motion seeking to vacate the 1993 disbarment order on grounds that the State Bar allegedly did not exercise due diligence twenty-nine years ago before serving him by publication and allegedly did not maintain complete records of the proceeding. The DHC denied his motion. Irek filed a Rule 59 motion seeking relief from the order denying his petition. After briefing from the State Bar, he withdrew the Rule 59 motion. He gave notice of appeal. The State Bar's brief was filed on October 12.

TRUST ACCOUNT COMPLIANCE PROGRAM

Ninety-four lawyers have completed the TAC Program since its inception. Six lawyers accepted offers to participate in the TAC Program after the July 2022 Quarterly Meeting. Leanor currently supervises forty-five participants. Leanor also monitors four DHC defendants whose stayed suspensions include trust account compliance conditions and oversees compliance with random audit corrections.

AUTHORIZED PRACTICE

The Authorized Practice Committee opened 9 new files this quarter. There are 9 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. 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 multiple tort claim actions and lawsuits on behalf of other parties. The court denied Arroyo's motion to dismiss in October 2021 and granted the State Bar's motion to dismiss Arroyo's counterclaim on January 12. The court also granted a preliminary injunction prohibiting Arroyo from filing legal proceedings or preparing documents on behalf of others. The court denied Arroyo's motions for reconsideration and other relief. On August 31, the court denied Arroyo's motion for summary judgment on her already-dismissed counterclaim. The Office of Counsel represents the State Bar.

Prepaid Legal Services Plan Registration

During the third quarter, the State Bar accepted for registration the initial registration statements for Legalpreneur Membership (22PP01), Vital Legal Plan (22PP02), and UNC Charlotte Student Legal Services (22PP03), Public Servant Legal Plan (22PP04), Primerica Home Business Supplement in English and Spanish (22PP05), Primerica Ride Share and Delivery Supplement in English & Spanish (22PP06), Primerica Trial Defense Supplement in English & Spanish (22PP07), and NC Sheriff's Association – Officer Assistance Network (22PP08).

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

North Carolina State Bar v. Julia Olson-Boseman (Wake County Superior Court). The State Bar obtained an order on July 18 holding attorney Julia Olson-Boseman, of Wilmington, in civil contempt for failing to comply with the provisions of a preliminary injunction requiring her to produce information to the State Bar. The court entered a consent order lifting an order for Olson-Boseman's arrest in light of her facial compliance with the provisions of the preliminary injunction. The OOC is reviewing the materials she provided to determine whether she in fact complied.

In re Brooke McIntosh Crump (Montgomery County Superior Court). This judicial disciplinary proceeding was initiated with an order to show cause on June 7. The court appointed Deputy Counsel Carmen Bannon and Cameron Lee to prosecute the show cause. The show cause hearing was scheduled for July but Crump filed a notice of removal of the case to federal court. The Middle District recently granted the State Bar's motion to remand and the matter is scheduled for trial in Superior Court starting October 31.

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, were all dismissed and were 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 granted the State Bar's motion to dismiss. Arroyo filed notice of appeal but did not perfect the appeal. 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 granted the State Bar's motion to dismiss. Arroyo filed notice of appeal but did not perfect the appeal. 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 granted the State Bar's motion to dismiss. Arroyo filed notice of appeal but did not perfect the appeal. 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 OOC complied with that demand, sending Exum a written response. Exum alleges in this action 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. On June 15, the court dismissed Exum's appeal for failure to prosecute. Exum did not appeal by the July 15 deadline. The Attorney General represented 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 filed notice of appeal to the North Carolina Court of Appeals. Kirk's deadline to perfect the appeal has passed. The Attorney General represents 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 a State Bar officer but was not an officer when this lawsuit was filed. Polidi makes vague, generalized allegations of wrongful conduct in connection with his decision to surrender his law license and consent to be disbarred. He has never served Willoughby or Jean. If he does, the Office of Counsel will represent them.

Richard Polidi v. Carmen Bannon (Wake County Superior Court). Polidi surrendered his law license and was disbarred by the Wake County Superior Court in 2014. In July 2017, he filed this action against Carmen Bannon, State Bar deputy counsel, in her official and individual capacities. Polidi makes vague, generalized allegations relating to his decision to surrender his law license and consent to be disbarred. He has never served Bannon. If he does, the Office of Counsel 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 (who prosecuted Livingston) as defendants, alleging that they selectively prosecuted him. In February 2019, the federal court granted the State Bar defendants' motion to dismiss for lack of subject matter jurisdiction. In March, Livingston filed this action, a nearly identical complaint, in Wake County Superior Court. Livingston never served any defendant. On June 3, he obtained alias and pluries summonses but never served them. The State Bar first learned of the Wake County lawsuit on September 9, 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. If the State Bar defendants are ever served, the Office of Counsel will represent them.

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 former 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 State Bar awaits a ruling on its motion to dismiss the amended complaint. The Office of Counsel represents the defendants.

HGGLBT International Express Trust v. Clerk of Superior Court, "NC State Bar and members" (NC Industrial Commission). This is a purported tort claim. HGGLBT writes at length about common law and alleges generally that members of the State Bar took actions to which HGGLBT objects in connection with a foreclosure. HGGLBT alleges no acts or omissions by the State Bar and identifies no viable theories of recovery. The deputy commissioner dismissed the claim. Claimant's appeal to the Full Commission was scheduled for hearing July 19, 2022. Because claimant did not file a brief or respond to communications from the Full Commission, the Full Commission elected to decide the case on the written record. We await its decision. The Attorney General represents the State Bar.

Amy Allen v. North Carolina State Bar (NC Office of Administrative Hearings). Allen filed a grievance arising from her domestic case. Before the grievance was resolved, Allen filed a petition for contested case hearing with OAH alleging that the State Bar substantially prejudiced her rights, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously, and failed to act as required by law or rule. The deputy commissioner dismissed the claim, concluding that Allen lacks standing and that OAH lacks subject matter jurisdiction. On June 28, Allen filed a petition for judicial review in the Forsyth County Superior Court. After OAH files the certified record with the Forsyth County Superior Court, Allen will have thirty days to file her brief. The Attorney General represents the State Bar.

In re Jaffer (NC Court of Appeals). Jaffer filed a lawsuit alleging that an estate was stolen from her. The lawsuit was dismissed. She filed multiple grievances against lawyers involved in the estate proceedings. All of the grievances were dismissed. She filed a lawsuit in Orange County Superior Court against the Clerk of Court, the Durham Police Department, and the Durham Civilian Review Board. She alleged that many legal professionals and entities, including deputy counsel Liza Foley and the State Bar, conspired to have her case thrown out and committed hate crimes and acts of treason and terrorism. The lawsuit was dismissed. She petitioned the North Carolina Court of Appeals for a writ of mandamus compelling the superior court to rule on pleadings she filed before the case was dismissed. She listed Foley as an unaffiliated attorney of record. The Court of Appeals denied all of Jaffer's petitions for extraordinary writs and motions for clarification. She has not sought review by the North Carolina Supreme Court.

Client Security Fund Claims/Subrogation Cases

The quarterly meeting of the CSF Board occurred on October 7. There are currently no lawsuits pending in superior court seeking reimbursement for payments made by the CSF.

Disbursement Cases

The OOC did not complete any disbursements or escheatments this quarter.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **Lennie Hughes** of Elizabeth City, **Willie R. Perry** of Durham, **Lisa N. Rogers** of Raleigh, **Anthony James Cuticchia** of Raleigh, **William J. Morgan** of Jacksonville, and **Joseph W. Seegers** of Newland. Trustees were also appointed to wind down the practices of **Richard M. Pipkin** of Chapel Hill, who is suffering from a disabling condition, and **John K. Burns** of Wilmington, who is on disability inactive status.

The OOC petitions the Superior Court in the districts where deceased, disbarred, disabled or missing lawyers practiced to appoint trustees to wind down their 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.

APPEALS IN OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Completed Appeals

No appeals were completed this quarter in other litigation in the state and federal courts.

Pending Appeals

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

PERSONNEL

In July, **Jessica Arnold** joined the OOC as deputy counsel. Jessica is a 2013 graduate of Campbell University School of Law. She has extensive courtroom experience as a criminal lawyer. She also has experience in domestic law, personal injury, and estate planning. Jessica joined us from her employment with Tarlton Polk, PLLC, in Raleigh.

In August, **Terrie Nelson** joined the OOC as deputy counsel. Terrie is a 2018 graduate of Campbell University School of Law. She was previously an assistant district attorney in Wilmington. She has also worked closely with former State Bar councilor Donna Rascoe at Cranfill Sumner & Hartzog, LLP, practicing education law.

In September, **Ryan Cooke** joined the OOC as our newest deputy counsel. Ryan is a 2022 graduate of Campbell University School of Law. She was our 2021 summer intern and our 2022 summer law clerk. Ryan and her husband are expecting their first child on January 22.

MISCELLANEOUS

David staffs the Authorized Practice Committee.

Leonor is the Trust Account Compliance Counsel. She serves on the Board of Directors for the 10th JD/Wake County Bar Association, chairs the WCBA Professionalism Committee, and is a member of the NCBA Professionalism Committee for which she is also chair. Leonor staffs the PMBR Committee. She is also a member of the NCBA Task Force on Integration, Equity, and Equal Justice. She often presents at CLE programs on the topic of trust account management.

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 has been rescheduled for November 8, 2022. 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. Currently, the schedule is: March 2, 2023 in Greensboro; March 13, 2023 in Raleigh; April 12, 2023 in Brunswick County; May 2, 2023 in Charlotte; May 11, 2023 in New Bern; and, August 2, 2023 in Asheville. Barry continues to mentor a third-year law student in the Campbell Law Connections Mentorship Program.

Cameron and Barry handle the appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers. Cameron also staffs the Legal Deserts Subcommittee. Cameron and his wife are expecting their second child on Christmas Eve.

Carmen is an Associate Adjunct Professor of professional responsibility at UNC Law and a Past President of the Wake County Bar Association, where she serves on many committees. This quarter she also presented an ethics CLE for the Center for Legal Education & Advocacy. Carmen continues to serve as the OOC's liaison to the judiciary, speaking regularly with judges and Judicial Standards Commission staff.

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, assisted greatly by her extraordinary paralegal Brittany, tracks trust account-related cases and updates the disposition charts annually. Jennifer is a member of the Wake County Bar Association History Committee. Jennifer staffs the State Bar's LAMP Committee.

Alex regularly teaches CLEs on ethics and technology. As the most technologically-adept lawyer in the OOC, he worked tirelessly to help his colleagues navigate the technological challenges presented by the ransomware attack and by COVID and continues to help everyone in OOC with computer issues. Alex helps oversee administration of our legal research and investigative software and serves on the committee coordinating our new regulatory software implementation. Alex also routinely staffs and assists subcommittees of the Issues Committee.

Savannah is Adjunct Professor of Legal Research and Writing at Campbell University School of Law. She also oversees the registration of prepaid legal services plans and staffs a subcommittee studying issues relating to those plans.

Liza oversees the State Bar's rule amendment process, including formatting and updating the 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. Liza also handles public records requests for the OOC. She is getting married in November.

Kelley is excited to return to her love of teaching CLE courses this fall. She will be teaching Ethical Issues in District Court at UNC School of Government's Misdemeanor Defender Training. She looks forward to more CLE teaching opportunities in the future.

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