

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
JANUARY 13, 2023**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the fourth quarter, ACAP staff responded to 1,649 phone calls from members of the public and placed 69 calls to lawyers. Staff also responded to 886 emails from members of the public and attorneys and responded to 417 letters from inmates. In addition, there were 16 translations completed of fee dispute petitions submitted in Spanish. Intake logged 3,859 entries.

The State Bar opened 128 petitions for fee dispute resolution during the quarter.

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. In 2022, 1,404 grievance files were opened. As of January 13, 57 grievance files have been opened in 2023.

As of January 13, 1,629 grievances were pending. One hundred ninety-six grievances were stayed. Thirty-five 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 139 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 1,259 files in which no recommendation has yet been made, 272 were more than six months old. In the fourth quarter of 2022, 121 files were dismissed by the Grievance chair or by the Grievance chair and a vice chair.

There were no inquiries about lawyer advertising in the fourth quarter of 2022.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

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

George Rouco – 20 DHC 23

Rouco, of Charlotte, pled guilty to felony possession of a controlled substance. He was suspended for three years by the DHC. The suspension is stayed for three years upon Rouco's compliance with numerous conditions.

Lloyd T. Kelso – 21 DHC 21

Kelso, of Gastonia, attempted to have sexual relations with a client, provided financial assistance to a client, improperly revealed confidential information, and grossly mismanaged his trust account. He was suspended for a minimum of one year and will be subject to conditions for one additional year upon reinstatement.

Mark A. Key—21 DHC 23

Key, of Lillington, chronically failed to comply with the law regarding personal and business taxes, engaged in felony mortgage fraud, disclosed client confidences, mismanaged his trust account, was disruptive during a Superior Court trial, made misrepresentations to an employee and knowingly underreported her wages to the IRS, and made misrepresentations to the Grievance Committee. Notwithstanding his extensive 20-year disciplinary history, the DHC announced its decision to suspend Key for five years, with a possible stay after three years upon compliance with conditions. The order of discipline has not yet been entered.

Michael A. DeMayo – 22 DHC 1

DeMayo, of Charlotte, 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. The DHC announced its decision to suspend DeMayo’s law license for one year. The suspension is stayed for two years upon his compliance with enumerated conditions. The order of discipline has not yet been entered.

Willie R. Brooks, Jr. – 22 DHC 5

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. The DHC suspended Brooks’ law license for four years. He may apply for a stay of the suspension upon compliance with enumerated requirements.

Keisha M. Lovelace – 22 DHC 9

Lovelace, of Raleigh, did not turn over documents ordered to be provided to opposing counsel in a workers compensation case, did not make reasonable efforts to ensure that her paralegal’s conduct was compatible with her professional obligations as a lawyer, and did not timely respond to communications from opposing counsel, prejudicing the administration of justice. Lovelace also did not respond to her client’s repeated requests for information and did not inform her client that the case was dismissed without prejudice. She was reprimanded by the DHC.

Ayeshinaye Smith – 22 DHC 19

Smith, of Raleigh, lacked competence to represent an elderly, incompetent client, allowed herself to be 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. The DHC suspended her for three years. The suspension is stayed for three years with the requirements, among others, that Smith obtain a practice monitor and complete additional CLE hours in the areas of ethics and elder law.

Completed Grievance Noncompliance Actions before the DHC

Elizabeth J. Caviness – 22 DHC 27N

Caviness, of Charlotte, failed to respond to a letter of notice and ignored subpoenas issued by the Chair of the Grievance Committee. Caviness did not respond to 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 Caviness was non-compliant and suspended her law license.

Completed Surrenders to the Council

Meghan E. Ashworth – 22BCS4

Ashworth, of Kitty Hawk, diverted \$16,433.26 of legal fees that should have been paid over to her law firm. Ashworth surrendered her license and was disbarred by the Council at the October 2022 quarterly meeting.

Completed Discipline and Disability Proceedings in the Courts

In re Brooke McIntosh Crump (Montgomery County Superior Court)

The Montgomery County Superior Court ordered Crump, of Lake Tillery, to show cause why she should not be disciplined for professional misconduct. The court concluded that Crump routinely asserted frivolous claims, repeatedly lied to the court, engaged in abusive tactics, disparaged judges, displayed incompetence, and forged a verification that she filed with the court, among other things. Crump did not appear for the show cause hearing. She was disbarred.

In re Brooke McIntosh Crump (Moore County District Court)

The Moore County District Court also ordered Crump to show cause why she should not be disciplined for professional misconduct. The court concluded that Crump made false extrajudicial statements on Facebook about an assistant district attorney; that those statements were sufficiently prejudicial to warrant declaration of a mistrial in a criminal matter; that Crump interrupted an unrelated district court trial to serve the same assistant district attorney with a subpoena to appear and testify in the same criminal matter about which Crump made the Facebook posts; and that Crump's purpose in making the Facebook comments and subpoenaing the assistant district attorney was to try to force recusal of the Moore County DA's Office from her client's case. Crump did not appear for the show cause hearing. The court suspended her license for two years.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were entered this quarter.

Transfers to Disability Inactive Status

Donald E. Britt, of Wilmington, **G. Wendell Spivey**, of Gatesville, and **Renita Linville**, of Winston-Salem, were transferred to disability inactive status.

Interim Suspensions

No lawyers were placed on interim suspension this quarter.

Completed Petitions for Reinstatement/Stay - Uncontested

In re Petition for Reinstatement of Keith C. Booker – 22 BSR 1

In 2016, Booker, of China Grove, was suspended for five years by the DHC, which concluded that he neglected and did not communicate with clients, lacked diligence, did not properly manage his trust account, and misapplied entrusted funds. Booker petitioned for reinstatement after six years. On October 13, the DHC reinstated Booker subject to a two-year probationary period.

Completed Petitions for Reinstatement/Stay - Contested

No contested petitions for reinstatement/state were completed 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 a preliminary injunction prohibiting **Jonathan Washburn**, 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.

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 case is stayed.

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 rescheduled 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 she is returned to active status.

Paris Peppers – 22 DHC 2

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

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 involving failure to pay income taxes.

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, deposit entrusted funds into his trust account, conduct required trust account reconciliations and reviews, and maintain required trust account records. He is enjoined from handling entrusted funds. Upon Dail's assertion that he is disabled, he 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-March 1.

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, maintain required trust account records, and 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.

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; and 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. The December 8-9 hearing was continued due to the illness of Gurley's counsel and has not been rescheduled.

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 was continued and has not been rescheduled.

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.

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.

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.

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. Entry of default was entered on December 13. 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 Grievance Committee. 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.

Mark T. Cummings – 22 DHC 25

It is alleged that Cummings, of Greensboro, misrepresented his residency in an election, instructed a courtroom clerk to issue a note containing false information, failed to issue required Forms 1099, made related false statements, and misrepresented the existence of evidence to the presiding judge during a trial. Hearing has not been scheduled.

Kenneth Robert Davis – 22 DHC 26

It is alleged that Davis, of Elizabethtown, did not properly maintain and disburse entrusted funds, committed various other trust accounting violations, did not timely file and pay state and federal personal income taxes, and did not timely file and pay over state and federal withholding taxes. Hearing has not been scheduled.

Kathie Willard - 23 DHC 2

It is alleged that Willard, of Raleigh, while a party to a lawsuit, fabricated email to support her denial of self-dealing in the underlying litigation and delivered the fabricated email to her attorneys, who produced them in discovery. It is also alleged that, by doing so, she committed the crimes of conspiracy and soliciting obstruction of justice. Hearing has not been scheduled.

Robert Hedrick – 23 DHC 3

It is alleged that Hedrick, of Raleigh, continued to represent a client by recording a correction deed after the client asserted that he had prepared a deed incorrectly, which created a potential claim for malpractice against him and therefore a conflict between his interests and those of the client; advised the client that he could file a correction deed when he had no basis for doing so; and recorded the correction deed, knowing that doing so would create a cloud on title. Hearing has not been scheduled.

Harry C. Marsh – 23 DHC 4

It is alleged that Marsh, of Matthews, engaged in misconduct in many different real property matters, including the following conduct: recorded a document that falsely appeared to create an encumbrance on title, knowing his client would use that document to extract payment from the owner to release the purported encumbrance; misappropriated entrusted funds provided by an investor for one purpose and used the funds for another purpose for the benefit of the buyer/borrower and without the investor's knowledge or consent; intentionally failed to record a deed of trust and then closed a subsequent sale of the same property without paying off the prior debt that should have been secured by the unrecorded deed of trust; prepared multiple HUD-1 Settlement Statements providing different information to different recipients to induce the court to approve a bankruptcy debtor's sale of property by misrepresenting the nature of the transaction; failed to disburse funds for the closing as directed by the Bankruptcy Court; made misrepresentations to the Grievance Committee; did not timely respond to the Grievance Committee; disbursed funds from the trust account in excess of funds that were in the account for those clients; collected attorney's fees and costs by improper means that failed to identify the client whose fees and costs were being collected; did not maintain individual client ledgers for each deposit of funds into the trust account; and engaged in a conflict of interest. Hearing has not been scheduled.

Pending Grievance Noncompliance Actions before the DHC

There are no pending grievance noncompliance actions.

Pending Petitions for Reinstatement/Stay - Uncontested

There are no pending uncontested petitions for reinstatement or stay.

Pending Petitions for Reinstatement/Stay - Contested

In re Theodore G. Hale – 20BCR1

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

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

In June of 2018, the DHC suspended Smith, of Charlotte, for two years. The DHC concluded that Smith violated multiple trust accounting rules. The order of discipline provided that, after he served one year of the suspension, Smith could petition for a stay of the balance upon 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 is scheduled for February 15 and 16.

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 February 8.

Demetrius G. Rainer – 22 BCR 3

In 2009, Rainer, of Charlotte, surrendered her license to the court in 09CVS4279 (Wake County) and was disbarred following her guilty plea in federal court to conspiracy to engage in bank fraud, conspiracy to launder monetary proceeds of fraudulent real estate transactions, and conspiracy to launder monetary proceeds of the unlawful distribution of controlled substances. Rainer filed a petition for reinstatement on October 27. Hearing was continued from January 13, 2023 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

Stuart L. Egerton, of Wilmington, submitted an affidavit of surrender of his law license for consideration by the Council at the January 20 meeting.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed Appeals

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. Weckworth withdrew his appeal on December 30.

Pending Appeals

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 and gave notice of appeal. The Court will decide the case without oral argument.

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 serving 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. On December 13, the Supreme Court denied Entzminger’s petition for discretionary review.

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. On November 1, 2022, the Court affirmed. Megaro’s petition for discretionary review is pending.

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.

Brooke M. Crump, Montgomery County file no. 22 CVS 220

Crump, of Lake Tillery, was disbarred by the Montgomery County Superior Court on December 9. She gave notice of appeal.

TRUST ACCOUNT COMPLIANCE PROGRAM

One hundred lawyers have completed the TAC Program since its inception. Four lawyers accepted offers to participate in the TAC Program after the October 2022 Quarterly Meeting. Leanor currently supervises forty-two 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 15 new files this quarter. There are 14 files on the committee’s January agenda.

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. On December 2, 2022, the court granted the State Bar's motion for summary judgment and entered a permanent injunction. Arroyo's motion for reconsideration has not been scheduled for hearing. The Office of Counsel represents the State Bar.

Prepaid Legal Services Plan Registration

During the fourth quarter, the State Bar accepted for registration the initial registration statements for First Citizens Bank & Trust Company (22PP09), Jorens Healthcare, LLC (22PP10), Metabolon, Inc (22PP11), Parata Systems (22PP12), and Plansource Boost – Center for Creative Leadership Inc. (22PP13).

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.

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. The State Bar’s motion to dismiss her petition is pending. The Attorney General represents the State Bar.

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

This quarter, the OOC disbursed \$1,401.78 to the Client Security Fund, \$8,062.99 to the Department of State Treasurer for escheatment, and \$500.00 to a former client of a disbarred lawyer for a total of \$9,964.77.

Two orders to partially disburse funds in trust accounts subject to injunctions were also entered.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **William W. Gerrans** of Kinston, **Spurgeon Fields** of Raleigh, and **John G. Wolfe** of Kernersville. Trustees were also appointed to wind down the practices of **Lynne Hicks** of Mocksville and **Donald E. Britt, Jr.** of Wilmington, who are both suffering from disabling conditions that have left them unavailable to their clients.

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

There were no personnel changes in the OOC this quarter.

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 and chairs the NCBA Professionalism Committee. 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, investigator Doug Miller and paralegal Michelle Mormando have been working with Investor's Title to host wire fraud summits. The summits are designed to prevent wire fraud affecting trust accounts and to educate lawyers and their staffs about scam prevention. The November 8, 2022 wire fraud summit was a great success. Barry, Doug and Michelle are 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 3, 2023 in Asheville. The dates for the wire fraud CLEs taking place in Fayetteville and the Outer Banks have not been scheduled yet. 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 welcomed their second child, a baby boy, on December 20.

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 WCBA. 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 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.

Liza oversees the State Bar's rule amendment process, including formatting and updating the administrative rules, coordinating publication of rule amendments to the Council and the profession, and facilitating submission of rule amendments to the Supreme Court and the Office of Administrative Hearings. Liza also handles public records requests for the OOC. She married Alex Starnes in November.

Kelley serves as Carmen's pinch-hitter for judicial inquires. She recently taught a CLE course on Ethical Issues in District Court at UNC School of Government's Misdemeanor Defender Training. She looks forward to more teaching opportunities in the future.

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