

**REPORT OF THE OFFICE OF COUNSEL
TO THE N.C. STATE BAR COUNCIL
APRIL 21, 2023**

ATTORNEY CLIENT ASSISTANCE PROGRAM

During the first quarter of 2023, ACAP staff responded to 2,138 phone calls from members of the public, placed 78 calls to lawyers, responded to 1,466 emails from members of the public and lawyers, and responded to 536 letters from inmates. Intake logged 4,821 entries this quarter. In addition, there were 30 translations completed regarding fee dispute petitions and other materials that were submitted in Spanish. During this same quarter in 2022, ACAP staff responded to 1,845 phone calls from members of the public, placed 76 calls to lawyers, responded to 812 emails from members of the public and lawyers, and responded to 472 letters from inmates. Intake logged 4,418 entries this same quarter in 2022.

The State Bar opened 162 requests for fee dispute resolution during the first quarter, all of which were assigned to State Bar facilitators. By comparison, during this same quarter in 2022, there were 122 fee dispute petitions filed. This represents a 33% increase in fee dispute petitions filed over this same quarter in 2022.

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 April 14, 437 grievance files have been opened in 2023.

As of April 14, 1, 2,022 grievances were pending. Two hundred-five grievances were stayed. Thirty-four 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 147 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 1,636 files in which no recommendation has yet been made, 308 were more than six months old. In the first quarter of 2023, 113 files were dismissed by the Grievance chair or by the Grievance chair and a vice chair.

There were no inquiries about lawyer advertising in the first quarter of 2023.

DISCIPLINE AND DISABILITY CASES

Completed Cases Before the Disciplinary Hearing Commission

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

Cindy C. Huntsberry – 21 DHC 20

It was 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 in September 2021. This DHC action was voluntarily dismissed after Huntsberry died in September 2022.

Kenneth A. Free, Jr. – 22 DHC 8

Free, of Greensboro, embezzled entrusted funds he received as escrow agent. He is enjoined from handling entrusted funds. He surrendered his law license and was disbarred by the DHC.

Valerie Bennett Queen – 22 DHC 18

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 two grievances that resulted from her failure to respond to the fee disputes. Entry of default was entered on December 13, 2022. Queen did not respond to the entry of default or the motion for default order of discipline. The DHC suspended Queen’s law license for 5 years. Queen will be eligible to apply for a stay of the balance of the suspension after 18 months upon the satisfaction of enumerated conditions.

Andre Hogan - 22 DHC 22

Hogan, of Fayetteville, did not reconcile his trust account, improperly disbursed entrusted funds, and did not respond to the Grievance Committee. The DHC suspended his license for one year. The suspension is stayed for two years upon enumerated conditions, including the requirement that his trust account activity must be monitored by a trust account monitor.

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 Hedrick 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 there was no basis for doing so; and recorded the correction deed, knowing that it would create a cloud on title. The DHC suspended his license for five years.

Completed Grievance Noncompliance Actions before the DHC

Earnest N. Bailey – 23 DHC 1N

Bailey, of Winston-Salem, did not respond fully and timely to multiple letters of notice. Bailey did not respond to an order issued by the Chair of the DHC to show cause as to why his license should not be suspended for noncompliance with the grievance process. The Chair determined that Bailey was noncompliant and suspended Bailey’s law license on January 15, 2023.

Completed Disciplinary Review Panels

The first four disciplinary review panels met on February 10, 2023. One review was continued. At its April 2023 meeting, the Grievance Committee will consider any recommendations of the review panels for disposition that differs from the discipline that was issued by the Grievance Committee.

Completed Surrenders to the Council

David Gurganus – 23 BCS 1

Gurganus, of Raleigh and formerly of Williamston, misappropriated entrusted funds in excess of \$4,000.00 and forged court documents. He is enjoined from handling entrusted funds. He surrendered his license and was disbarred by the Council at the January 2023 quarterly meeting.

Completed Discipline and Disability Proceedings in the Courts

State Bar v. Christi A. Misocky (Wake County Superior Court)

Misocky, of Monroe, misappropriated entrusted funds, provided false information to the Grievance Committee, did not provide information requested by the Grievance Committee, abandoned client files, and pled guilty in federal court to conspiracy to commit fraud by using confidential client information to create and cash fraudulent checks. She is enjoined from handling entrusted funds. Misocky submitted an affidavit of surrender of her law license and was disbarred by the court.

In re Jasmine Gregory (Stokes County District Court)

The Stokes County District Court ordered Gregory to show cause why she should not be disciplined for professional misconduct or transferred to disability inactive status. The court appointed the OOC to present evidence of misconduct and/or disability. The OOC concluded that the evidence did not establish professional misconduct or disability. The court accepted the OOC's recommendation and dismissed the discipline or disability action.

Orders of Reciprocal Discipline

No orders of reciprocal discipline were entered this quarter.

Transfers to Disability Inactive Status

Richard Dail of Thomasville and **Robert Lewis, Jr.** of Raleigh were transferred to disability inactive status.

Interim Suspensions

No orders of interim suspension were entered this quarter.

Completed Petitions for Reinstatement/Stay - Uncontested

Christopher C. Peace – 22 RD 1

In November 2021, Peace was transferred to disability inactive status by the Grievance Committee. After arranging for LAP to monitor Peace's compliance with certain conditions, the OOC consented to Peace's reinstatement. The DHC reinstated Peace to active status on March 1.

Completed Petitions for Reinstatement/Stay - Contested

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. After a two-day hearing on his second petition for reinstatement, the DHC again concluded that he should not be reinstated. The order has not yet been entered.

Demetrius G. Rainer – 22 BCR 3

In 2009, Rainer, of Charlotte, surrendered her law license to the Wake County Superior Court 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. After a two-day hearing, the DHC entered an order recommending denial of Rainer's petition for reinstatement.

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 **J. Michael Edney** of Hendersonville from handling entrusted funds.

The Moore County District Court entered a preliminary injunction prohibiting **Arthur M. Blue** from practicing law.

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 nonlawyer 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.

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 is scheduled for May 17-18.

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. The case is stayed to allow the State Bar to investigate new allegations of misconduct. The State Bar must make a status report to the DHC panel by April 24.

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 orders in a civil case her cousins brought against her, and made false representations to the Grievance Committee. Peppers was immediately transferred to disability inactive status upon filing a notice of disability in the DHC proceeding on 15 March 2023. The disciplinary proceeding is stayed pending a determination of whether Peppers is disabled. Hearing on disability has not been scheduled.

Brian R. Harwell – 22 DHC 3

Harwell, of Mooresville, pled guilty in Iredell County Superior Court to felony possession of methamphetamine, misdemeanor harboring a fugitive, and misdemeanor resisting a public officer. 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. The Chair of the DHC entered an order of interim suspension of Harwell's law license.

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 State Bar recently amended its complaint to add a claim involving failure to pay income and payroll taxes. Hearing has not been scheduled.

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; and 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 discipline action was stayed pending completion of the disability proceeding. After Dail underwent a medical evaluation, a consent order for Dail to remain in disability inactive status was entered. The disciplinary action will be stayed until Dail is returned to active status.

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 June 1-2.

Charles R. Gurley – 22 DHC 12

It is alleged that Gurley, of Goldsboro, grossly abdicated to nonlawyer 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 nonlawyer 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. Hearing was continued due to the illness of Gurley's counsel and was rescheduled for April 25-26.

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.

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.

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 is scheduled for November 14-17.

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 is scheduled for June 15-16.

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.

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: 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; did not 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.

Neil Scarborough – 23 DHC 5

It is alleged that Scarborough, of Nags Head, neglected multiple clients; charged a clearly excessive fee; made statements to embarrass a third party; engaged in conduct prejudicial to the administration of justice; did not protect a client upon termination; engaged in the practice of law while his license was administratively suspended; violated several trust account record-keeping rules; and did not timely respond to the Grievance Committee. Hearing has not been scheduled.

Lonnie W. Carraway – 23 DHC 7

It is alleged that Carraway, of Snow Hill, drove a vehicle while under the influence of an impairing substance on two separate occasions between June 2019 and June 2020. On October 23, 2020, Carraway pled guilty to two counts of driving while impaired. Carraway had previously been convicted of driving while impaired in February 2012. Hearing has not been scheduled.

Pending Grievance Noncompliance Actions before the DHC

Charles M. Kunz – 23 DHC 6N

Kunz, of Durham, was ordered by the DHC on March 21, 2023, to show cause why the Chair should not enter an order suspending his license for noncompliance with the grievance process. It is alleged that Kunz failed entirely to respond to five letters of notice served upon him, failed to respond timely to four letters of notice served upon him, and failed to produce subpoenaed documents.

Pending Disciplinary Review Panels

Disciplinary review panels will consider four petitions for review April 21.

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.

Pending Motions to Show Cause

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

Pending Surrenders to the Council

Sean T. Dillenbeck, of Gastonia, submitted an affidavit of surrender of his law license for consideration by the Council at the April meeting.

APPEALS IN DISCIPLINE & DISABILITY CASES

Completed Appeals

No appeals were completed this quarter.

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

motion. After the State Bar filed its brief, Irek withdrew the Rule 59 motion and appealed denial of the Rule 60 motion to the North Carolina Court of Appeals. The Court will decide the case without oral argument.

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 of Appeals 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. 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. The court concluded that, in multiple cases and on multiple occasions in the trial court and in the Court of Appeals, Crump filed frivolous pleadings seeking relief for which there was no basis in law or fact, made false and misleading statements to courts, impugned the character and motives of multiple judges, made baseless recusal motions, filed her own false affidavit, demonstrated her lack of basic understanding of the concepts of "factual support" and "admissible evidence" and her ignorance of the Rape Shield Statute, and failed to yield to the rulings of the court. She gave notice of appeal.

Michael 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 suspended DeMayo’s law license for one year. The suspension is stayed for two years upon his compliance with enumerated conditions. The State Bar’s response to DeMayo’s proposed record on appeal is due April 17, 2023.

Mark A. Key – 21 DHC 23

The DHC concluded that 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. The DHC suspended Key, who has a 20-year history of professional discipline, for five years with a possible stay after three years upon compliance with conditions. Both Key and the State Bar filed notices of appeal. The transcript is being prepared.

TRUST ACCOUNT COMPLIANCE PROGRAM

One hundred and nine lawyers have completed the TAC Program since its inception. Five lawyers accepted offers to participate in the TAC Program after the January 2023 quarterly meeting. Leonor currently supervises forty-five participants. Leonor 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 16 new files this quarter. There are 16 files on the committee's April 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, granted the State Bar's motion to dismiss Arroyo's counterclaim, entered a preliminary injunction prohibiting Arroyo from filing legal proceedings or preparing documents on behalf of others, denied Arroyo's motion for summary judgment on her already-dismissed counterclaim, granted the State Bar's motion for summary judgment, and entered a permanent injunction. The court denied Arroyo's motion for reconsideration. Arroyo gave notice of appeal from the denial of her motion for reconsideration. The Office of Counsel represents the State Bar.

Prepaid Legal Services Plan Registration

During the first quarter, the State Bar received no initial registration statements for proposed prepaid legal services plans and received no amendments to existing plans.

OTHER LITIGATION IN THE STATE AND FEDERAL COURTS

Pending Litigation

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. According to the eCourts docket, the case has been discontinued but Polidi continues to obtain alias and pluries summonses. He has never served Bannon. If ever he does, the Office of Counsel will represent her.

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 then-current State Bar councilor. 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. According to the eCourts docket, the case has been involuntarily dismissed but Polidi continues to obtain alias and pluries summonses. If he ever does serve the summons and complaint, the Office of Counsel will represent them.

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 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) andleanor 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 2019, Livingston filed this action, a nearly identical complaint, in Wake County Superior Court. Livingston never served any defendant. He obtained alias and pluries summonses but never served them. The State Bar first learned of the Wake County lawsuit 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. According to the eCourts docket, the case was formally discontinued in August 2022. 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. On March 13, 2023, the court dismissed Livingston's federal law claims and declined to exercise jurisdiction over any state law claims. Livingston gave notice of appeal. The Office of Counsel represents the defendants.

Eddie L. Meeks v. Robert Weston and Robert Powell (U.S. District Court, WDNC). Licensee Eddie Meeks, of Gastonia, is a respondent in two related grievances being investigated by Deputy Counsel Weston and State Bar investigator Powell. During the investigation, Meeks blamed his wife for the alleged misconduct. Meeks filed this lawsuit after sitting for a subpoenaed interview with the State Bar and before his wife's subpoenaed interview. He alleges that the State Bar committed abuse of process and violated 42 U.S.C. § 1983. Meeks argues that, by asking questions during his interview that were not expressly delineated in the letter of notice, the State Bar converted its interview subpoena into a search warrant. This "search warrant" allegedly violated Meeks' Fourth, Fifth and Fourteenth Amendment rights under the U.S. Constitution. The Attorney General represents the State Bar employees.

Anthony McNeill v. State of North Carolina et al (U.S. District Court EDNC). McNeill filed this lawsuit against the State of North Carolina, the State Bar, multiple private lawyers, loan servicers, and the substitute trustee on a deed of trust. The allegations are largely incomprehensible. McNeill asserts that there were irregularities in the making of a mortgage loan and that, therefore, foreclosure is or was wrongful. He alleges that "[t]he state is guilty of real estate deed fraud which is verified by the day-to-day process of registering homeowners' property deeds in their office." He claims violation of the Fair Debt Collection Practices Act, wrongful foreclosure, breach of contract, negligence, forgery, infliction of emotional distress, and unspecified common law theories. He does not allege any act or omission alleged to have been committed by the State Bar. McNeill seeks compensatory and punitive damages in excess of five million dollars. The Attorney General represents the State Bar.

Rodney Dale v. Entities of the Gaston County District 27A et al (Gaston County Superior Court). Dale filed this "Petition for Administrative Review of Administrative Court Decision," naming as defendants various judicial officials, a private lawyer, and the State Bar. Before it received this petition, the State Bar was unaware of any action asserted by Dale against the State Bar. The allegations are largely incomprehensible. The petition appears to arise from a divorce proceeding. Dale calls himself a "private attorney general" and "private bounty hunter." He appears to seek disbarment of the private attorney. The Attorney General represents the State Bar.

Completed Litigation

Teresa Waters v. "North Carolina State Bar Standards Association" or "State of North Carolina Bar Association" (Union County Superior Court). Waters filed grievances against three lawyers. The grievances were dismissed. Waters' allegations are largely incomprehensible. She alleges that former State Bar deputy counsel Susannah Cox "failed to possess the entire case files" relating to a motor vehicle accident that underlies the grievances. Waters also alleges that Waters herself failed to produce the entire case files to the State Bar. On April 10, the court allowed the State Bar's motion to dismiss and entered a gatekeeper order against Waters. The Attorney General represented the State Bar.

Valerie Arroyo v. Daniel Zamora et al (NC Industrial Commission). This and the following two entries are purported tort claims filed by Arroyo against the State Bar and other entities and officials. These three files, and six additional claims Arroyo filed against other individuals and agencies, were all dismissed and were consolidated into a single appeal to the Full Commission. In this claim, Arroyo alleged 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 represented the State Bar.

Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission). In this claim, Arroyo alleged 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 represented the State Bar.

Valerie Arroyo v. North Carolina State Bar (NC Industrial Commission). In this claim, Arroyo alleged 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 represented 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 alleged 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 timely appeal. 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 alleged 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 but did not perfect the appeal. The Attorney General represented the State Bar.

HGGLBT International Express Trust v. Clerk of Superior Court, “NC State Bar and members” (NC Industrial Commission). This was a purported tort claim. HGGLBT wrote at length about common law and alleged generally that members of the State Bar took actions to which HGGLBT objects in connection with a foreclosure. HGGLBT alleged no acts or omissions by the State Bar and identified no viable theories of recovery. The deputy commissioner dismissed the claim. The Full Commission affirmed the deputy commissioner’s ruling in January 2023. The Attorney General represented 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. Allen filed a petition for judicial review in the Forsyth County Superior Court, which granted the State Bar's motion to dismiss on February 13, 2023. The Attorney General represented the State Bar.

Client Security Fund Claims/Subrogation Cases

The Client Security Fund Board held its quarterly meeting on January 19. The Board paid four claims and denied four claims. There are currently no lawsuits pending in superior court seeking reimbursement for payments made by the CSF.

Disbursement Cases

This quarter, the OOC disbursed \$51,690.60 to former clients of a disbarred lawyer.

Trusteeships

Trustees were appointed to wind down the practices of deceased lawyers **Ernest J. Wright** of Jacksonville, **Benjamin "Chip" Bridges, III** of Salisbury, and **John Gray Lewis** of Statesville. A trustee was also appointed to wind down the practice of **Benner Jones, III** of Fayetteville, who was transferred to inactive status and became unavailable to clients. The original trustee was discharged and a successor trustee appointed to wind down the law practice of **Daniel J. Park** of Elkin.

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

Alas, David will retire this summer. His first tour of duty with the State Bar ran from 1979 to 1985. His second tour began in 2002. David's retirement will leave a giant void in the OOC but he richly deserves a little relaxation.

Elizabeth "Lizzy" Robbins is the new administrative assistant in ACAP. She comes to ACAP from the Wake County Clerk of Court, where she was a deputy clerk.

Susan Ranes resigned her position as administrative assistant in the Attorney-Client Assistance Program.

Ben Hanley resigned his position as public liaison in ACAP.

MISCELLANEOUS

Kelley staffs the new subcommittee on grievance diversion programs and serves as Carmen's pinch-hitter for judicial inquires. She has been teaching ethics CLEs and looks forward to more teaching opportunities in the future. When not fielding calls from judges or working on her caseload, you can find her playing French Horn for a local town band.

David staffs the Authorized Practice Committee.

Jennifer volunteers as a judge with the Capital Area Teen Court program in Raleigh and Holly Springs, 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. Jennifer also serves on the History Committee of the Wake County Bar Association.

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 taught an ethics CLE for the Durham County Bar and was a presenter at the Mid-Atlantic Women's Legal Profession Retreat in Roanoke, Virginia. Carmen also spoke at the ceremony in which the State Bar's Distinguished Service Award was presented to the family of David Freedman. She continues to serve as the OOC's liaison to the judiciary, speaking regularly with judges and Judicial Standards Commission staff.

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.

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.

Savannah is Adjunct Professor of Legal Research and Writing at Campbell University School of Law. She pinch hits for Barry in finding and assisting trustees appointed to wind down the practices of deceased, disabled, disbarred and missing lawyers. She also oversees the registration of prepaid legal services plans.

Cameron also staffs the Subcommittee Studying Legal Deserts and serves as an advisor to the Subcommittee on Succession Planning. He also has a new baby son, Ellis.

Ryan has a new baby boy, also named Ellis.

Barry handles the appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers. He staffs the Client Security Fund. 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.

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.

Rob handles disbursements from the trust accounts of disbarred and suspended lawyers. He also recruits and supervises our summer interns.

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