

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

**ATTORNEY CLIENT ASSISTANCE PROGRAM**

During the second quarter of 2023, ACAP staff responded to 1,923 phone calls from members of the public, placed 81 calls to lawyers, responded to 907 emails from members of the public and lawyers, and responded to 494 letters from inmates. Intake logged 4,526 entries this quarter. In addition, there were 13 translations completed regarding fee dispute petitions and other materials that were submitted in Spanish. During this same quarter in 2022, ACAP staff responded to 1,918 phone calls from members of the public and placed 65 calls to lawyers. Staff also responded to 2,890 emails from members of the public and attorneys and responded to 569 letters from inmates. In addition, Intake logged 4,325 entries this quarter.

The State Bar opened 135 requests for fee dispute resolution during the second quarter, all of which were assigned to State Bar facilitators. By comparison, during this same quarter in 2022, there were 111 fee dispute petitions filed.

**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 July 13, 2,258 grievances were pending. One hundred ninety-eight grievances were stayed. Twenty-eight 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 283 of the pending cases and the cases were ready for the Grievance Committee's decision. Of the remaining 1,947 files in which no recommendation has yet been made, 318 were more than six months old. In the second quarter of 2023, 96 files were dismissed by the Grievance chair or by the Grievance chair and a vice chair.

There was one inquiry about lawyer advertising in the second quarter of 2023.

**DISCIPLINE AND DISABILITY CASES**

**Completed Cases Before the Disciplinary Hearing Commission**

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

**Gregory A. Bullard – 21 DHC 14**

Bullard, of Pembroke, did not ensure that his law firm remitted withheld taxes from employee paychecks 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 DHC suspended his license for three years. The suspension is

stayed for three years upon enumerated conditions, including the requirement that he comply with his payment arrangements with taxing authorities.

**J. Brent Garner – 22 DHC 10**

Garner, of Rockingham, misappropriated entrusted funds, made misrepresentations to the Grievance Committee, improperly disbursed entrusted funds, did not properly maintain entrusted funds, did not conduct required trust account reconciliations and reviews, and did not maintain other required trust account records. He was disbarred by the DHC.

**Charles R. Gurley – 22 DHC 12**

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 required information to 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 income tax returns and did not pay taxes he withheld from employee paychecks for several years. The DHC granted the State Bar's motion for partial judgment on the pleadings on four of seven claims. The State Bar dismissed one of the three remaining claims and the hearing panel found rule violations on the two contested claims involving tax violations. Gurley was disbarred by the DHC.

**Michelle Congleton Smith – 22 DHC 13**

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. She also made multiple false statements to the Grievance Committee during its investigation. She surrendered her law license and was disbarred by the DHC.

**Monica Savidge – 22 DHC 17**

Savidge, of Southport, mishandled entrusted funds, did not conduct required trust account reviews and reconciliations, and made misrepresentations to the Grievance Committee. The DHC suspended her license for three years. The suspension is stayed for three years on enumerated conditions.

**Kenneth Robert Davis – 22 DHC 26**

Davis, of Elizabethtown, did not properly maintain and disburse entrusted funds, did not conduct required trust account reconciliations, did not always identify the client on trust account checks and deposit slips, did not timely file and pay individual federal and state income taxes, and did not ensure timely filing of employment tax returns and timely paying over of those taxes. The DHC imposed a three-year suspension, stayed for five years on enumerated conditions.

**Completed Grievance Noncompliance Actions before the DHC**

No grievance noncompliance actions were completed this quarter.

### **Completed Disciplinary Review Panels**

Four disciplinary review panels met on April 21. One review was continued. At its July 2023 meeting, the Grievance Committee will consider any recommendations of the review panels for disposition that differ from the discipline that was issued by the Grievance Committee.

### **Completed Surrenders to the Council**

#### **Stuart L. Egerton – 23 BCS 2**

Egerton, of Wilmington, misappropriated approximately \$91,663.01 of fiduciary funds from his mother's estate and improperly collected an additional \$21,010.26 as attorney's fees from the estate, without Clerk approval, that he did not return to the Estate despite the Clerk's order to do so. He is enjoined from handling entrusted funds. He surrendered his license and was disbarred by the Council at the January 2023 quarterly meeting.

#### **Sean Thomas Dillenbeck – 23 BCS 3**

Dillenbeck, of Gastonia, misappropriated entrusted funds totaling at least \$38,500.00. He is enjoined from handling entrusted funds. He surrendered his license and was disbarred by the Council at the April 2023 quarterly meeting.

#### **Omowunmi Odedere – 23 BCS 4**

Odedere, formerly of Greensboro, aided her former suspended associate, Roydera D. Hackworth, in the unauthorized practice of law. Hackworth surrendered her law license at the July 2021 meeting and was disbarred. Odedere surrendered her license and was disbarred by the Council at the April 2023 quarterly meeting.

#### **Charles M. Kunz – 23 BCS 5**

Kunz, of Durham, misappropriated approximately \$85,000.00 of entrusted funds and engaged in multiple instances of neglect and dishonesty. He was enjoined from handling entrusted funds. He surrendered his license and was disbarred by the Council at the April 2023 quarterly meeting.

### **Completed Discipline and Disability Proceedings in the Courts**

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

### **Orders of Reciprocal Discipline**

No orders of reciprocal discipline were entered this quarter.

### **Transfers to Disability Inactive Status**

**Douglas Hux** of Eden and **Richard T. Dail** of Thomasville were transferred to disability inactive status.

### **Interim Suspensions**

No orders of interim suspension were entered this quarter.

### **Completed Petitions for Reinstatement/Stay - Uncontested**

No uncontested petitions for reinstatement were completed this quarter.

### **Completed Petitions for Reinstatement/Stay - Contested**

No contested petitions for reinstatement 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 temporary restraining order prohibiting **Brooke M. Crump** of Mount Gilead from handling entrusted funds. The OOC is seeking a preliminary injunction but has been unsuccessful in serving Crump and will serve Crump by publication. Crump was disbarred by the Montgomery County Superior Court on December 9, 2022.

### **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.

**Penny K. Bell – 21 DHC 17**

It is alleged that Bell, of Clinton, made false representations to the Grievance Committee and 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. On July 5, 2023, the State Bar moved to amend the complaint to add a second claim for relief. The proposed second claim for relief alleges that Bell provided false and misleading information to the court when she failed to inform the court in an *ex parte* motion for emergency custody that her client was subject to an active arrest warrant for felony interference with child custody regarding the same child at issue in the motion. Hearing has not been scheduled.

**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 will be scheduled after Peppers undergoes a scheduled medical evaluation.

**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, improperly deposited entrusted funds into his operating account, misappropriated client funds, did not conduct required trust account reconciliations and reviews, and did not timely file and pay federal individual income taxes for several years and employment taxes for one quarter. He is enjoined from handling entrusted funds. Hearing has been continued and has not been rescheduled.

**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 immediately transferred to disability inactive status and the discipline action was stayed pending completion of the disability proceeding. After Dail underwent a medical evaluation, the DHC entered a consent order concluding that Dail is disabled and will remain in disability inactive status. The disciplinary action will be stayed until Dail is returned to active status.

**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.

**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 is scheduled for September 11-15.

**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 and made related false statements, and misrepresented the existence of evidence to the presiding judge during a trial. Hearing is scheduled for November 14-17.

**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 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 of the attorney-client relationship; engaged in the practice of law while his license was administratively suspended; violated multiple 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.

**Anita B. Hunt – 23 DHC 8**

It is alleged that Hunt, of Durham, did not properly maintain and disburse entrusted funds and misappropriated entrusted funds. Hearing has not been scheduled.

**Matthew S. Schrum – 23 DHC 9**

It is alleged that Schrum, of Elkin, while purporting to represent two elderly clients in an estate planning matter, engaged in constructive fraud, obtained an illegal/excessive fee, engaged in conduct involving dishonesty and/or misrepresentation in representations to a financial institution, made a materially false statement to the Grievance Committee, and converted in excess of \$6,000 in violation of a court order. Hearing has not been scheduled.

**Travis Simpson – 23 DHC 10**

It is alleged that Simpson, of Winston Salem, neglected and did not communicate with his client, did not respond to the Grievance Committee, and abandoned confidential client materials at his former law office when he was evicted. Hearing has not been scheduled.

**Nicolle T. Phair – 23 DHC 11**

It is alleged that Phair, of Sanford, engaged in a fraud upon the court during her representation of a criminal defendant, in which she had a stranger pretend to be her client when the her client’s case was called for trial. It is also alleged that Phair engaged in contempt of court, did not act with diligence, and prejudiced the administration of justice when she failed to return to an afternoon session of court as directly ordered by the court, resulting in unnecessary continuances for clients who remained in jail. Hearing has not been scheduled.

**Earl H. Strickland – 23 DHC 12**

It is alleged that Strickland, of Lumberton, did not conduct required trust account reviews and reconciliations, improperly disbursed entrusted funds, did not promptly disburse entrusted funds, did not complete disbursements intended by old outstanding checks, did not escheat abandoned funds, and did not send required annual accountings to clients. Hearing has not been scheduled.

**Ronnie P. King – 23 DHC 13**

It is alleged that King, of Roxboro, did not timely file and pay his firm’s employee withholding taxes for several years. Hearing has not been scheduled.

**Pending Grievance Noncompliance Actions before the DHC**

There are no pending grievance noncompliance actions.

**Pending Disciplinary Review Panels**

A disciplinary review panel will consider one petition for review on July 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.

**Gregory Bartko – 23 BCR 1**

In 2011, Bartko submitted an affidavit of surrender and was disbarred by the Wake County Superior Court following his conviction in federal court to one count of conspiracy, four counts of mail fraud, and one count of sale of unregistered securities. On May 12, 2023, Bartko filed a petition in the DHC seeking reinstatement. The hearing panel announced its decision to grant the State Bar’s motion to dismiss. The order has not yet been entered. Bartko filed a Rule 60 motion and has expressed his intent to appeal.

**Pending Motions to Show Cause**

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

**Pending Surrenders to the Council**

**Rebecca A. Nelson**, of Raleigh, submitted an affidavit of surrender of her law license that will be on the agenda for consideration by the Council at the July meeting.

**APPEALS IN DISCIPLINE & DISABILITY CASES**

**Completed Appeals**

**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. The Court of Appeals affirmed. On June 14, the Supreme Court denied Megaro’s petition for discretionary review.

## 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. 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**

On December 9, 2022, Crump, of Lake Tillery, was disbarred by the Montgomery County Superior Court. 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 and has obtained several extensions of time to deliver the transcript.

### **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. DeMayo appealed. The State Bar filed its brief on July 3.

### **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 appealed. The transcript has been prepared.

## **TRUST ACCOUNT COMPLIANCE PROGRAM**

One hundred fourteen lawyers have completed the TAC Program since its inception. Two lawyers accepted offers to participate in the TAC Program after the April 2023 quarterly meeting. Leonor currently supervises forty-two participants. Leonor also monitors two DHC defendants whose stayed suspensions include trust account compliance conditions and oversees compliance with random audit corrections.

## **AUTHORIZED PRACTICE**

The Authorized Practice Committee opened 8 new files this quarter. There are 11 files on the committee's July 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 file a lawsuit seeking to enjoin Valerie Arroyo's unauthorized practice of law. Arroyo, who is not licensed to practice law in North Carolina, 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's unauthorized practice of law, and denied Arroyo's motion for summary judgment. On December 2, 2022, the court granted summary judgment for the State Bar and enter a permanent injunction. Arroyo appealed but has not perfected the appeal. The Office of Counsel represents the State Bar.

### **Prepaid Legal Services Plan Registration**

During the second quarter, the State Bar received five 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. He has never served Bannon. If 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 now former 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. If he does, 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 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 Deputy Counsel 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 2019, Livingston filed this action, a nearly identical complaint, in Wake County Superior Court. Livingston never served any defendant. In June 2019, he obtained alias and pluries summonses but never served them. The State Bar first learned of the Wake County lawsuit in September 2019, when the trial court administrator directed the parties to prepare a case management order. The State Bar notified the trial court administrator that, because no defendant has been served, the case should be discontinued. The State Bar has heard nothing further from the trial court administrator and the case has not been scheduled for hearing. If the State Bar defendants are ever served, the Office of Counsel will represent them.

**Eddie Meeks v. Robert Weston and Robert Powell (U.S. District Court WDNC).** Meeks, respondent in a pending grievance, filed this lawsuit on February 6, 2023, against Deputy Counsel Weston and State Bar Investigator Powell. Meeks alleges that Weston and Powell violated 42 U.S.C. § 1983 and committed abuse of process in their investigation of allegations of Meeks' professional misconduct by serving upon him and upon his wife subpoenas issued by the Chair of the Grievance Committee and by investigating additional allegations that came to light during the investigation. The magistrate judge recommended that the court grant the defendants' motion to dismiss. The clerk's attempted service of the magistrate judge's recommendation has been unsuccessful. Meeks has not objected to the magistrate judge's recommendation. The Attorney General represents Weston and Powell.

**North Carolina State Bar v. Michelle Meeks (Wake County Superior Court).** Pursuant to N.C. Gen. Stat. § 84-28(i), the State Bar petitioned the Wake County Superior Court for an injunction enforcing the subpoena it issued to Ms. Meeks. Ms. Meeks is the spouse of attorney Eddie Meeks, who is the subject of multiple State Bar investigations concerning alleged harassment of a former client. As a defense, Mr. Meeks placed sole responsibility for the harassing conduct on his wife. The State Bar sought to interview Ms. Meeks pursuant to a properly served subpoena. At the interview, Mr. Meeks claimed to represent Ms. Meeks and instructed her to make patently frivolous assertions of the Fifth Amendment in objection to each of the State Bar's questions. every question he posed. In this action, the State Bar asks the court to enforce the State Bar's subpoena for an interview without patently frivolous objections. The Office of Counsel represents the State Bar.

**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 asserted that there were irregularities in the making of mortgage loan and that, therefore, foreclosure is or was wrongful. He alleged 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 claimed 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 did not allege any act or omission alleged to be attributable to the State Bar. McNeill sought compensatory and punitive damages in excess of five million dollars. On June 12, 2023, the court dismissed the complaint and closed the file. McNeill has 30 days in which to appeal. The Attorney General represents the State Bar.

**Teresa Waters v. “State of North Carolina Bar Association” (NC Industrial Commission).** Waters filed this purported tort claim, alleging that the “State of North Carolina Bar Association” failed to investigate grievances she filed. She also filed grievances at the Judicial Standards Commission alleging that the Commission failed to investigate grievances she filed. Her allegations are largely incomprehensible. Waters sought unquantified recovery for alleged financial harm and emotional distress, costs and attorney fees. The deputy commissioner dismissed the claims with prejudice on June 13. Waters appealed. The Attorney General represents the State Bar.

### Completed Litigation

**“Class, Rodney Dale” v. Entities of the Gaston County District 27A et al (Rowan County Superior Court).** Dale filed a claim at NCOAH against judicial officials, a private lawyer, and the North Carolina Bar Association. The deputy commissioner dismissed the claims. Dale filed this “Petition for Administrative Review of Administrative Court Decision,” again naming judicial officials and a private lawyer, but this time naming the State Bar as a respondent. Before receiving this petition, the State Bar was unaware of the action at OAH. The allegations were largely incomprehensible but appeared to arise from a divorce proceeding. The court affirmed dismissal of all claims against the State Bar and judicial officials. Dale did not appeal. The Attorney General represented the State Bar.

**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 filed this action alleging 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 alleged that Waters herself failed to produce the entire case files to the State Bar. Waters sought unquantified recovery for alleged financial harm and emotional distress and sought costs and attorney fees in excess of \$90,000. On April 27, the court dismissed the complaint with prejudice and entered a gatekeeper order enjoining Waters from filing any further documents in the case without prior leave of the senior resident superior court judge. Waters did not timely appeal. The Attorney General represented the State Bar.

**Christopher Livingston v. NC State Bar, Susannah Cox and Katherine Jean (U.S. District Court EDNC).** Livingston is a licensee whose license is suspended. On June 21, 2021, Livingston filed this lawsuit in the US District Court EDNC against the State Bar, counsel Katherine Jean, and former deputy counsel Susannah Cox. He purported 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 alleged that the State Bar did not discipline lawyers who he alleged committed violations of the Rules of Professional Conduct 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 the complaint with prejudice and declined to exercise supplemental jurisdiction over Livingston’s remaining state law claims. Livingston appealed. On June 27, the Fourth Circuit affirmed dismissal of the claims against Cox and Jean in their individual capacities with prejudice but indicated that dismissal of the claims against the State Bar, Cox and Jean in their official capacities was without prejudice. The Office of Counsel represented the defendants.

### **Client Security Fund Claims/Subrogation Cases**

The Client Security Fund Board held its quarterly meeting on May 10. The Board paid twelve claims and denied twelve claims. The Board will consider 17 claims at its July 20 meeting. There are currently no lawsuits pending in superior court seeking reimbursement for payments made by the CSF.

### **Disbursement Cases**

This quarter, the OOC disbursed \$1,217.38 to a former client of a disbarred lawyer.

### **Trusteeships**

Trustees were appointed to wind down the practices of deceased lawyers **Charles Michael Kunz** of Durham and **Arthur M. Blue** of Carthage.

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**

Sadly, David Johnson really is going to retire on July 31, but we hope to lure him back a few hours a week on a contract basis.

The Office of Counsel is pleased to welcome two law student interns this summer. Gloris Anderson is a rising 3L at North Carolina Central University School of Law. Marley Peterson is a rising 3L at Wake Forest University School of Law. Both look forward to meeting councilors at the July Quarterly Meeting.

Elizabeth Robbins joined the ACAP Department as an administrative assistant on April 13. She has a B.A. degree in Justice from Mount Mary University in Milwaukee, Wisconsin. She comes to the OOC from the Wake County Clerk of Court, where she was a deputy clerk.

Stephanie Hampton joined the ACAP Department as a public liaison on May 4. She previously worked at Elon University and has experience that serves her well in her ACAP role, including her work as a mental health advocate and as a paralegal at a local law firm.

Kathryn Shields joined OOC as a deputy counsel on June 1. Kathryn is a 2011 graduate of NC Central School of Law. She comes to us from NCDOJ, where she was Special Deputy Attorney General. Kathryn has extensive experience representing the State of North Carolina and its employees and agencies in state and federal courts and in administrative proceedings.

Emma Schultz, who goes by EJ, joined the OOC on June 14 as a litigation paralegal. She is a graduate of UNC-Greensboro with a B.S. degree in International Business and earned her paralegal certificate from the UNC-Chapel Hill paralegal certification program. EJ comes to us from Kilpatrick Townsend & Stockton LLP.

Terrie Nelson's last day in the OOC was May 23. Terrie accepted a position as corporate in-house counsel.

Tom Crosby's last day in the OOC will be July 25. He will join the staff of NCDOJ.

## **MISCELLANEOUS**

Kelley staffs the subcommittee on grievance deferral 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 currently staffs the Authorized Practice Committee, and Tessa will staff the committee after David's retirement.

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. This quarter she taught an ethics CLE for the NC Association of County Attorneys. She continues to serve as the OOC's liaison to the judiciary, speaking regularly with judges and Judicial Standards Commission staff. Carmen recently undertook the project of overhauling and streamlining the grievance intake process in an effort to improve efficiency and workflow within the OOC.

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 as vice chair of its Swearing-In 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 oversees the registration of prepaid legal services plans and staffs the subcommittee studying legal deserts.

Barry handles the appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers. He also staffs the Client Security Fund. Barry and investigator Doug Miller have been working with Investor's Title to host wire fraud summits. The summits are designed to prevent wire fraud affecting trust accounts and to educate lawyers and their staffs about scam prevention. 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. The next scheduled program is August 2, 2023 in Asheville. Barry continues to mentor a third-year law student in the Campbell Law Connections Mentorship Program.

Cameron pinch hits for Barry on appointment and supervision of trustees to wind down law practices of deceased, disbarred, suspended and missing lawyers. He staffs the subcommittee studying legal deserts and serves as an advisor to the subcommittee on succession planning. He also serves as a member of the Wake County Bar Association's History Committee.

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 advertising grievances and public records requests for the OOC.

Until his retirement, David handles the State Bar's outside litigation and appeals.

Rob handles disbursements from the trust accounts of disbarred and suspended lawyers. He recruits and supervises our summer interns. After David's retirement, he will also share responsibility for the State Bar's outside litigation and appeals with Kathryn Shields.

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