

THE NORTH CAROLINA STATE BAR

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IN THIS ISSUE

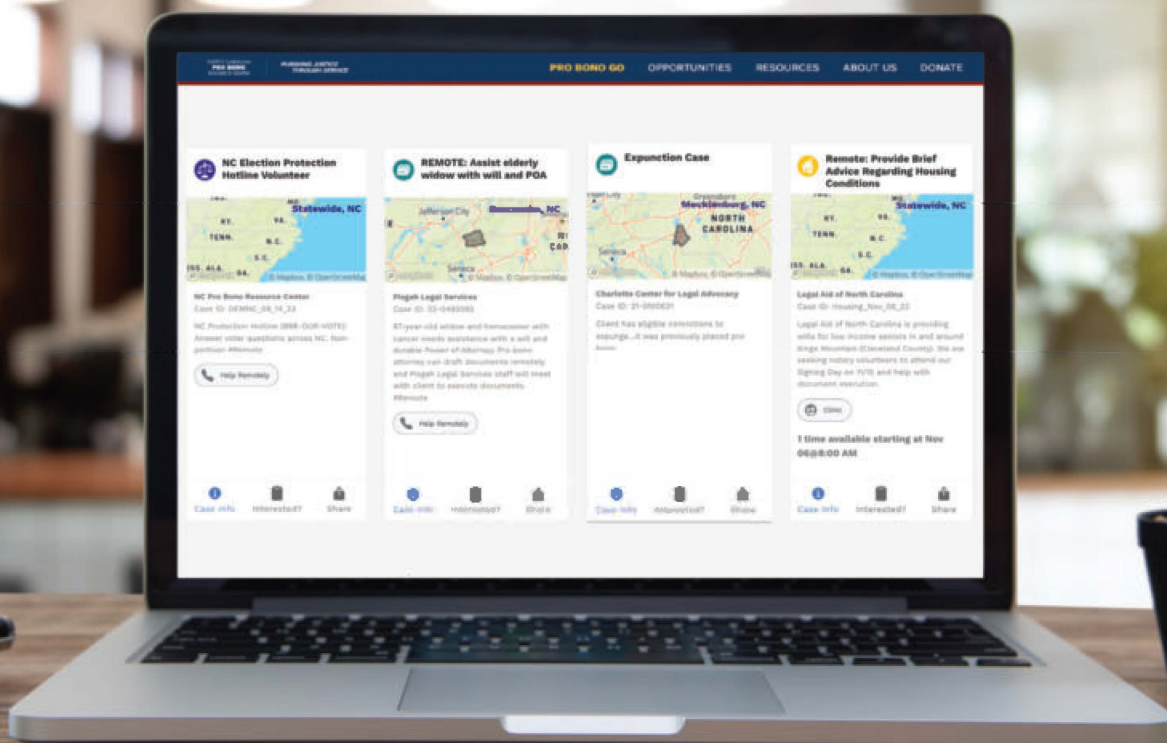
An Interview with Our New President *page 5*

A Larger Conversation on Legal Deserts *page 10*

Pro Bono Go: A Tool for *Pro Bono* Matchmaking *page 18*

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Editor
Jennifer R. Duncan

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Contents

FEATURES



- 5 An Interview with Our New President—A. Todd Brown**



- 10 A Larger Conversation on Legal Deserts**
By Brian Oten and Savannah Perry
- 14 "Blackbeard's Law:" Did North Carolina Pirate Shipwreck Footage?**
By Allie M. Craver



- 16 NextGen Bar Exam Build on Strengths of Current Attorney Assessments**
By Timothy Davis
- 18 Introducing Pro Bono Go, NC's New Tool for Pro Bono Matchmaking**
By Mary Irvine and Sylvia Novinsky
- 20 The Forgotten History of Wyatt Outlaw and Governor William W. Holden**
By Wade Harrison
- 24 Honoring Our Past—50 Year Lawyers in Their Own Words**

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Contents

DEPARTMENTS

- 27 The Disciplinary Department
- 28 Legal Specialization
- 29 Pathways to Well-Being
- 32 Lawyer Assistance Program
- 33 Proposed Ethics Opinions
- 36 Rule Amendments

BAR UPDATES

- 23 In Memoriam
- 40 Resolution of Appreciation
- 41 State Bar Swears In New Officers
- 42 Fifty-Year Lawyers Honored
- 44 Third Quarter Random Audits
- 45 Distinguished Service Award

- 46 Client Security Fund
- 47 Upcoming Appointments
- 48 Annual Reports
- 51 Bar Exam Applicants
- 54 Selected Financial Data

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An Interview with Our New President— A. Todd Brown

Charlotte Attorney A. Todd Brown was sworn in as president of the North Carolina State Bar by Chief Justice Paul Newby at the State Bar's Annual Dinner on Thursday, October 26, 2023.

Q: Tell us about your upbringing.

I was born in 1960 into the severely impoverished small, rural community of Wilksburg in Chester County, South Carolina. We were very poor. My mother, stepfather, two brothers, three sisters, and I lived in a tiny four-room house: two bedrooms, a kitchen, a front room. My 84-year-old mom worked in a textile mill her entire work life; my stepfather worked manual labor jobs, both earning meager wages. We bought what little food those wages could buy and relied on food stamps for the rest.

Until I reached the fourth grade, our house had no running water, no indoor plumbing, no indoor toilet. We got potable water by walking to a neighbor's outdoor spigot, filling empty gallon-sized milk jugs for our water supply. We bathed in a big aluminum tin tub. We relieved ourselves in what was known as a "slop-jar." We six children slept in a tiny bedroom in two regular-sized beds about arms-length apart, three boys in one and three girls in the other. We had a wood stove in the front room for heat.

I was raised essentially without a father. My biological father was a white college educated English teacher. He promptly abandoned my mom, older brother, and me several months after my birth in 1960. I have never seen him in person; I have never spoken a single word to him as father and son. My Black stepfather, with a tenth grade education, cared for the eight of us as best as he could, which wasn't much. He was a bad alcoholic, with violent propensities and a mean jealous streak. He was physically and mentally abusive toward my mom. Around



With his son, Tony, looking on, A. Todd Brown is sworn in as president of the North Carolina State Bar.

1973 he and my mom divorced. He then promptly departed South Carolina, abandoning the whole family. Without his meager income or child support, the scourge of poverty got a bit harsher.

I attended a small, segregated, rural public elementary school until integration occurred in Chester County around 1969 (the US Supreme Court had ruled segregated schools unconstitutional in 1954). Upon integration, each day I rode a school bus 15 miles each way to school, with many stops along the way. I started to understand in first grade that I could perform well academically. My two middle school years are a blur socially, although I performed well there academically. In high school, I played football and studied as best as I could. I actually drove a school bus three times a day in high school, mainly because I desperately needed money. I drove a bus route morning and afternoon to/from school, and a kindergarten route during the

middle of the day. Despite a time-consuming work schedule, I somehow managed to graduate fourth in my high school class.

Throughout my childhood, until I left for college at 18, the stigma of poverty was alive and well in our house and community. I had two guiding constants in my life. First, my single mother who gave us unconditional love, exhibited a strong work ethic, stressed getting the best education possible, taught us respect and compassion for the plight of others, and modeled a fierce determination to protect us from harm. Second, a wealth of Black and white teachers who saw some potential in me and decided to provide unwavering support and interest in my educational and overall success.

Q: When and why did you decide to become a lawyer?

When I graduated college in spring 1982 with an accounting degree, the economy was in a severe recession, job market condi-

tions were deteriorating, and the unemployment rate was around ten percent. Despite encouraging job interviews, I failed to land an accounting position with one of the Big Four and mid-sized accounting firms that interviewed on campus. So, to pay the bills, I took a job for a year keeping the financial books and records at a radio station owned by I.S. Leevy Johnson, one of the most successful businessmen and trial lawyers in South Carolina. He modeled all the virtues of a well-respected, ethical attorney. He became a great mentor and friend, and strongly encouraged me to apply to law school. I decided to apply, started classes fall of 1983, and graduated spring of 1986. I believed that obtaining a law degree would provide me with knowledge helpful to navigating life successfully and with the tools to pursue a variety of employment, business, and career options.

Q: If you had not chosen to become a lawyer, what other career path might you have followed?

Growing up I had neither a lawyer in my family nor exposure to a lawyer. When I entered college in fall of 1978, I had plans to become a computer programmer. This is so because as a young essentially fatherless child I was able to observe my uncle as a highly successful role model in the computer technology field. However, taking a few computer programming courses my freshman year in college quickly confirmed it was not my path. I then enrolled in the business school because I believed a business degree would provide viable employment and career options. I was confident I could succeed if I worked hard academically, so I chose the toughest program in the business school, which at the time was accounting. I performed well and obtained an accounting degree. I actually began down the accounting career path, buying the exam materials, studying, and registering for the CPA exam. But my heart was never in it.

I surmise that had I not become a lawyer, I would have pursued a path into the broad field of business, likely opting for a management-type position that would have afforded viable promotional opportunities into senior management roles.

Q: How has your career as a lawyer evolved?

When I graduated law school in the mid-1980s, the legal profession was experiencing exponential growth in large law firms. I believe the majority of law students at the top

of their classes and/or on law reviews gravitated towards the large law firm experience, in part because of perceived prestige and the attractive salaries and bonuses. We already worked long hours to obtain a law degree, so we were undaunted by the prospect of working long hours in a law firm.

At the time, many law students perceived making equity partner at a large law firm as the “brass ring.” It was never my main focus. When I started my career as a baby lawyer, I decided I wanted to make partner but not for the brass ring. Rather, I wanted to make partner to prove to myself, and some naysayers, that I was “good enough” as a Black lawyer to become one of the few partners of color in a predominately white law firm and in our legal profession. So I focused intently on developing a reputation known not only for doing excellent legal work and providing excellent client service to paying clients, but also for pursuing work critical to the culture, economics, and lifeblood of the law firm (e.g., firm management, client relations, business development, recruiting, diversity and inclusion, lawyer compensation and professional development, etc.) and to the firm’s standing in the markets and legal communities where we operated (e.g., public service, *pro bono* work, community and civic engagement, bar leadership and activities, etc.). The more I succeeded in these respects, the more my legal career experienced a positive upward trajectory.

Through a consistently strong work ethic, the good judgment to navigate the politics and governance of BigLaw, the wisdom and humility to remember that we have two ears and one mouth for good reason, the advice and guidance from both internal and external mentors and sponsors, and some pure luck, I now have achieved a relatively successful, still evolving-career I never imagined when starting out as a baby lawyer.

Q: What was your first leadership position?

I consider my first *formal* leadership role to have been captain of my high school football team, the “Chester Cyclones.” I was generally known to my teammates and coaches as a student who did well academically and had a strong work ethic, but also who was level-headed and down to earth. I was humble and friendly off the field, but very competitive and aggressive on the field. One could characterize my demeanor as trying to lead by example.

Leading by example involves exhibiting

dedication, hard work, support, teamwork, collaboration, and commitment to set a positive model. It can inspire others to emulate one’s work ethic and values. It can motivate team members to achieve their best and contribute to the organization’s success. It worked with my football team as we competed, and I am hopeful it works at the State Bar as we continue to discharge our mission to protect the public.

Q: What has been your proudest achievement as a lawyer?

I cannot point to a single proudest achievement as a lawyer. I am most proud of what being a lawyer has enabled me to model professionally and personally.

Professionally, I believe that the entirety of my body of work as a lawyer has demonstrated respect, collaboration, ethical conduct, fairness, inclusivity, civility, zealous advocacy for clients, a strong work ethic, a sense of fairness and justice, and a commitment to the rule of law.

Personally, I hope that the entirety of my body of work as a lawyer has allowed me to be a strong, positive role model for my three sons for comporting themselves well but humbly in life and for providing a comfortable and safe environment for their eventual families. Being a lawyer has afforded me the opportunity to see my sons matriculate college and law school and move through adulthood as reasonably well-educated, level-headed, hard-working, fair-minded, and compassionate men. The legal knowledge, broader judgment, confidence, and financial resources I possess as a result of becoming a lawyer have allowed me to give my sons diverse life experiences and career opportunities that should help them navigate life more successfully. Being a lawyer has enabled me to instill in my boys the confidence and self-esteem to know that they are more than “good enough” to traverse life’s challenges.

Q: Have you faced barriers professionally because you are a Black lawyer?

To be sure, many Black lawyers have encountered professional challenges, including but not limited to racism, bias, discrimination, underrepresentation, limited access to networking and mentorship, economic disparities, courtroom stereotypes, unequal opportunities, a psychological toll from navigating microaggressions, limited access to capital and resources for entrepreneurship, etc. In addition, Black lawyers who identify with or are members of other groups, such as

LGBTQ+ and Black women, can face compounded challenges stemming from intersectional discrimination and bias. Moreover, diversity, equity, and inclusion efforts intended to ameliorate some of these challenges are increasingly under attack. Systemic change within the legal profession likely will be necessary to overcome such barriers in the fullness of time.

While I likely have been subjected to such challenges in my legal career, I am unable to point to a specific incident that I labeled as an incident of overt racism, discrimination, bias, stereotype, etc. that prevented me from achieving a reasonable degree of success in my career. And if whenever I may have sensed one, it simply made me more determined to succeed. For example, in the 37-years at my law firm, I have been able to ascend to the highest levels of governance, management, substantive legal practice, and personal interests. Similarly, in my intentional pursuit of leadership opportunities in North Carolina bar organizations, including the Mecklenburg County Bar, the North Carolina Association of Defense Attorneys, and the North Carolina State Bar, I have risen to the presidency in each. I faced no known discriminatory or biased barrier to getting involved and rising to the leadership ranks in the normal course. I have been encouraged and invited to become involved in, and participated in, numerous other local, state, and national organizations focused on the legal profession.

The above are only my personal professional experiences. I would like to believe that my success in these regards stemmed from a combination of respect, collaboration, integrity, hard work, merit, demonstrated leadership ability, and some pure luck. On the other hand, I readily and freely acknowledge that my experiences differ substantially from those of many of my fellow Black lawyers who have indeed encountered instances of racism, discrimination, bias, stereotyping, etc. that have adversely affected and served as barriers to their professional success.

Q: How has being a Black man in a predominantly white profession influenced your thinking about the practice of law and the legal profession?

The legal profession, like many other fields, has historically been dominated by white individuals. My experiences and observations have confirmed my view that systemic change within the legal profession likely will be required to provide more fair, equitable,

and reasonable opportunities to overcome the professional and personal barriers many Black lawyers and lawyers of color face generally in our predominately white legal profession. Such thinking includes:

- Black lawyers often face the responsibility of representing and advocating for their community, leading them to approach the practice of law with a distinct sense of identity and purpose.

- Black lawyers frequently find themselves at the intersection of race, law, and culture, and this intersectionality underscores the importance of understanding and representing a broad range of perspectives and the need for diverse voices.

- Black lawyers, by virtue of their racial identity, often are more attuned to instances of bias and stereotypes and may be more inclined to address them directly. Personal experiences with inequality, injustice, and disparities within the legal system may lead to a heightened sense of responsibility to address them.

- Black lawyers recognize the career-enhancing potential of diversity, equity, and inclusion efforts and allies within a predominately white legal profession. At this professional level, Black lawyers want to succeed based on professional merit, not as beneficiaries of a quota or preferential treatment system.

- Black lawyers desire a level playing field that enables them to seek out career-enhancing opportunities for networking, professional development, mentorships, sponsorships, allyships, affinity groups, economic reward, etc.

Being a Black lawyer in a predominantly white legal profession carries with it a profound and transformative influence on one's thinking about the practice of law and the

The following poem was recited at the swearing in ceremony for Todd Brown. It was written by the keynote speaker, retired justice of the Supreme Court of Virginia, John Charles Thomas, who has been a mentor, sponsor, inspiration, and good friend to Mr. Brown.

Light The Soul

Light lay quietly at the Beginning
 'Til It was called into action by God
 Then it split the darkness, warmed the cold
 Brought motion to the stillness, touched our souls

And they say there is light at the end
 As we brace ourselves for the final journey
 The Word is there is light even then
 Light that Blinds you, Binds you, then sets you free

From Alpha to Omega, the Light shines through
 From dawn to dusk it orders what we do
 By particle and wave it prompts the birds to sing
 By pulse and reflection, it points out the way

Light can lift depression, dispel despair
 Bring Hope to the weary, lead us from fear
 Light can raise up emotions, quiet the storm
 Beckon us from rolling seas into the calm

We learn by light, we grow by light
 We sit in the dark transfixed by its sight
 And as the light flickers our hearts respond
 We can see the connections we can feel the bonds

It has been given to some to handle the light
 To mold it, to craft it, to bend it to right
 It has fallen to some to sculpt what we see
 To sharpen, to brighten, to make it run free

To those who would hold light in their hands
 There is much to remember, to understand
 In the Right Light, Love can shine
 In the Right Light, We can leave Wrong behind
 By the Light there is good we can know
 In the Light Justice can grow: Light the Soul!

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legal profession. Where pursuit of justice is paramount, the presence and voices of Black lawyers provide an essential perspective for transmuting the practice of law.

Q: You are highly respected in the field of

complex business litigation. What attracted you to business litigation as your primary area of practice?

In my first year of law school, I had a torts professor who was also a practicing civil defense attorney and excellent trial lawyer. He regularly regaled the class with memorable experiences and anecdotes of his trials and the practice of law as both a profession and a business. That torts professor's teachings, similar experiences and observations shared by other practicing defense trial lawyers, participation in moot courts and trial advocacy clinics during law school, my clerkships as a summer associate at large law firms with large business litigation practice groups, and my part-time job during law school at the United States Attorney's Office cemented my interest in complex business litigation. Since 1986 my law practice at Hunton Andrews Kurth LLP has encompassed a broad variety of complex business litigation and dispute resolution matters. I have never seriously considered another practice area.

Q: How and why did you become involved in State Bar work?

My law firm has long championed public service, *pro bono*, civic, and bar work through organizations in the markets we serve and the communities where our lawyers live. We not only support our lawyers' active participation, but also strongly encourage them to be intentional about pursuing leadership opportunities in such organizations.

My first formal introduction to the North Carolina State Bar occurred in 2010. I had just been sworn in as president of the Mecklenburg County Bar. Unbeknownst to me, then-State Bar President Bonnie Weyher was in attendance. Years earlier Bonnie and I had helped defend a high-profile premises liability, wrongful death lawsuit in Durham County Superior Court. Apparently, she remembered me from that case. Bonnie congratulated me on my Mecklenburg Bar presidency, shared with me her vision of developing a more diverse and inclusive State Bar Council, and encouraged me to run for a seat on the State Bar Council. I reminded Bonnie that my hands were quite full having just been sworn in, but, I respected and admired Bonnie so I relented to being appointed as an advisory member to the Ethics Committee. Despite enduring many ethics debates over "How many angels can dance on the head of a pin?" I increasingly came to relish my time on and the camaraderie of the council, espe-

cially working alongside a diverse array of councilors and becoming enlightened to the State Bar's overall body of excellent work. I came to believe I could offer meaningful perspectives and make accretive contributions to the State Bar's mission and operations.

After much encouragement and support from Charlotte lawyers, State Bar councilors, and my law firm, in 2013 I won my first councilor election for the 26th Judicial District. And 13 years later, I am the 89th State Bar president.

Q: What has your experience on the State Bar Council been like and how has it differed from what you anticipated?

My experience on the council has been great and substantially exceeded my expectations. I repeat here what I happily shared in my swearing-in remarks.

The last 13 years spent with my State Bar family have been some of the best and most rewarding of my 37-year legal career. That 13-year period has afforded me the opportunity to work alongside, and learn from, resolute men and women of the State Bar Council dedicated to our mission, justice, and the rule of law. They can aptly be called "Renaissance Lawyers" who possess a wide range of skills adaptable to serving the complex needs of clients and who are committed to professionalism, integrity, intellectual achievement, civility, collaboration, and service in the practice of law. Most practice or have practiced in solo or smaller firms, and for many, being away from their offices for days at a time to discharge their State Bar obligations requires substantial economic sacrifice. Still, they arrive cheerfully. It is our solo and smaller firm lawyers who more regularly interact with the public, represent the public in often life-changing matters, and, I dare say, better comprehend the struggles, the trials and tribulations, of members of the public. The shared experiences and insights of my council colleagues into the real-world challenges of serving the public have provided thought-provoking viewpoints on matters such as race, gender, culture, client-service, practice areas, demographics, geography, etc.

For me personally, serving with my fellow State Bar Councilors has afforded the unique opportunity—indeed, the privilege—of being able to compare and contrast the law practices of solo and smaller-firm lawyers with what my good friends and fellow officers Marci and Matt like to tease as my "ivory tower" BigLaw firm practice. The knowledge gained and les-

sons learned from my fellow councilors have been immensely educational, even transformational, for me. They have made me a better lawyer, a better public citizen. I cherish my State Bar family.

Q: What do you believe are the biggest issues currently facing the State Bar Council?

I believe three of the more pressing challenges facing councils governing mandatory state bars relate to technology, access to justice, and changing attitudes toward regulation.

Evolving technological advancements facilitate opportunities for lawyers to access legal information, communicate with their clients, and manage their law practices more efficiently. But they also present challenges regarding cybersecurity, online unauthorized practice of law, and attorney adaptation to new digital tools and platforms. State bar councils must effectively regulate the rapidly evolving advancements and changes in the use of technology, promote educational and training opportunities on digital tools, and address ethical issues related to the provision of online legal services. They must monitor and stay knowledgeable on technological advancements in the legal field, thereby ensuring the legal profession remains adequately regulated, relevant, and accessible.

Access to justice is an ever-expanding, ever-pressing need of our legal profession. The North Carolina Rules of Professional Conduct serve to remind lawyers not only of their ethical obligations, but also that we are public citizens with a special responsibility for improving access to, and the administration of, justice. And that lawyers should devote their time and their resources to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel. Ensuring equal access to justice for all helps eliminate legal impediments to economic opportunity. State bar councils can help improve access to justice by endeavoring to develop innovative approaches and to enhance current approaches, such as promoting greater *pro bono* work, working to reduce "legal deserts" in North Carolina, supporting and collaborating with legal aid organizations and stakeholders, and assessing the existence of regulatory barriers to obtaining cost-effective legal services.

The shifting attitudes toward regulation by mandatory state bars is potentially a cause for pause. Increasingly, questions arise whether mandatory state bars' traditional

regulatory rules and structures are overly burdensome and in need of reform. Some maintain the legal profession should consider a more market-driven model, allowing clients to make informed choices about legal services. Others question whether mandatory state bars' disciplinary apparatus affords fairness and due process to lawyers subjected to a grievance and the corresponding disciplinary process. Any inordinate shift in attitudes perhaps could challenge the very existence of mandatory state bars and their authority to regulate attorney conduct. To address this issue, mandatory state bars need to continue to engage in open and transparent dialogue and engagement with the public, lawyers, regulators, legal scholars, etc., to strike an appropriate balance between statutorily and judicially mandated regulation of lawyers and demands for greater autonomy within the legal profession. State bar councils should welcome the oversight of their governance and operations and the identification of beneficial reforms.

To remain effective and relevant, mandatory state bars must address important issues with creativity, adaptability, and a commitment to their core mission of ensuring ethical and competent legal practice while promoting access to justice for all.

Q: Programmatically speaking and otherwise, what do you hope to accomplish while president of the North Carolina State Bar?

As I mentioned in my swearing-in remarks, this is the third time I have received this question upon entering a presidency. Fortunately, my answer is consistently the same. It comes from that old familiar adage: "Try to leave the world a little better than you found it." My goal as president is simply to try to leave the North Carolina State Bar a little better than I found it. At this early stage, I have no grand plan to deliver some new and innovative signature program designed to etch my name in the State Bar's history books. Instead, my hope simply is to continue to use the State Bar's abundant existing resources, both human and financial, to build upon the excellent work, leadership, accomplishments, programs, and initiatives of my fellow officers, councilors, and State Bar lawyers and staff.

I also hope to fulfill my swearing-in pledge to collaborate with our State Bar executive director, officers, and council to take steps to properly recognize the vitally important work of the men and women who toil at

the State Bar and to keep that top of mind as we move forward. As I stated, they are dedicated and talented, some of the best and brightest in our legal profession. They do the heavy lifting and keep the trains running, ensuring that we officers and councilors stay within our mandated lanes of self-regulation and public protection. They are true assets to the State Bar.

As such, these loyal and skilled professionals should be recognized for the essential human resources they represent and the valuable contributions they make. To fulfill their missions and goals, high-performing institutions must take good care of those serving on the front lines. The State Bar can accomplish this by ensuring that our professional staff enjoys the benefits and rewards of a just and competitive compensation system and a respectful, collaborative, diverse, inclusive, and productive work environment.

Q: Do you foresee significant changes in the near future in the ways that lawyers practice law in North Carolina?

The practice of law is continuously evolving, but lawyers as a whole are notoriously slow to adapt to change, and often downright resistant to it. Presently, I do not envision major changes in the near future.

However, I continue to believe that the speed of advancement, implementation, and utilization of legal technology and automation could result in material upheaval sooner than later. The legal industry is increasingly embracing technology, including artificial intelligence (AI) and machine learning, to automate routine tasks like document review, legal research, and contract analysis. AI allows lawyers to focus on more complex, strategic, and value-added work. While jurisdictions have ethical rules that address technological competence of lawyers, such rules may need prompt updating to address unanticipated ethical dilemmas arising from the rapid evolution of AI.

AI evolutions have the potential to reshape the legal profession in North Carolina. Lawyers who stay vigilant to AI trends and who remain technologically savvy, client focused, and ethically competent should be better positioned to adapt and thrive in a technologically evolving legal landscape.

Q: What do you most enjoy doing when you're not representing clients or serving as a councilor or officer of the State Bar?

United States Supreme Court Justice

Joseph Story's oft-repeated observation that "[t]he law is a jealous mistress and requires long and constant courtship" is apropos to my legal career. Long ago I made peace that for me work-life balance might be ever-elusive if I were to achieve my personal, professional, and financial goals. To answer the question, when I am not representing clients or performing State Bar work, I have come to most enjoy doing "nothing." If I decide to do something, it usually involves self-care and stress management activities. I focus on trying to balance what medical literature and my doctors recommend: sleep, exercise, nutrition, quiet time, relationships, friends, and family. In no particular order, I enjoy sports, good TV shows/movies, breweries, good food, good red wine, reading, and keeping my financial house in order. Now that I have entered the "mature" season of my life's journey, increasingly I am vigilant in looking for opportunities to spend more time with my three wonderful sons as they enjoy their lives and build their families.

Q: How would you like your administration to be remembered when the history of the State Bar is finally written?

That as the 89th State Bar president and throughout my collective years of service, I worked diligently, steadfastly, collaboratively, and intentionally with our executive director, officers, councilors, and professional staff to discharge our mission to protect the public and preserve the integrity of the legal profession, and that we tried to leave the North Carolina State Bar a little better than we found it. ■

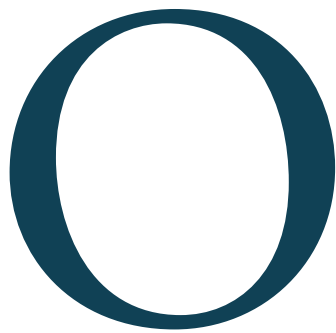
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A Larger Conversation on Legal Deserts

BY BRIAN OTEN AND SAVANNAH PERRY



n August 31, 2023,
the North Carolina
State Bar and the
Chief Justice's

Commission on Professionalism (CJCP) hosted a “Legal Desert Summit” at the State Bar building in Raleigh. Led by Chief Justice Paul Newby, State Bar President Marci Armstrong, and Jimbo Perry, co-director of the CJCP, the purpose of the event was to start a larger conversation on an issue that the State Bar has been studying for over a year. It’s an issue that is pressing, real, and

increasingly concerning if left unaddressed. The issue is the growth of “legal deserts” in North Carolina.

Generally, a legal desert is defined as a geographic area with a ratio of less than one lawyer for every 1,000 residents. The State Bar began studying this issue in June 2022, when then-State Bar President Darrin Jordan appointed a subcommittee to study the perception that many of our state’s smaller communities simply do not have enough lawyers. The impact of this issue

cannot be understated: less lawyers in the community leads to less access to legal services in the community; less access to legal services leads to less meaningful access to the justice system, and therefore less access to the rights and privileges afforded under law.

The data on lawyer population supports this observation. Although North Carolina as a whole has a ratio of roughly 2.5 lawyers

per 1,000 residents, 48 of our 100 counties qualify as a legal desert. As one might imagine, these legal desert communities are typically rural communities, primarily located in the eastern and western parts of the state. So where are our state’s lawyers? As you might guess, the lawyer population in the state’s large, urban communities is exploding. At present, nearly 48% of active lawyers in



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North Carolina list an address of record with the State Bar in Wake or Mecklenburg Counties; digging further, some 63% of our state's active, in-state lawyers reside in one of five counties (Wake, Mecklenburg, Durham, Guilford, and Forsyth). Conversely, these five counties only account for approximately one-third of the state's overall population. Let that sink in: 63% of the lawyers in North Carolina are practicing in geographic areas that encompass only 33% of the total population. Meanwhile, many of our eastern counties have a ratio of less than 0.5 lawyers for every 1,000 residents. And, as the State Bar concluded early in the study, the communities that qualify as a legal desert are facing an access to justice issue that may only get worse.

As the State Bar explored and educated itself on this critical issue, we met with a variety of groups to learn not just about the impact of legal deserts, but also about existing efforts and potential solutions to encourage or facilitate increased legal services in our smaller communities. Throughout these conversations, two things became apparent: 1) many groups independently experienced the impact of legal deserts in similar ways, and 2) there are abundant opportunities for seemingly different groups to collaborate as we collectively attempt to craft effective solutions that increase the presence and availability of legal services in our small communities.

As a result, President Armstrong and Director Perry decided to call for a summit to bring all interested parties to the table and share their experiences, concerns, frustrations, success stories, and ideas on this prevalent topic. The Legal Deserts Summit was a huge success. Over 70 individuals attended the event, representing a variety of

perspectives from across our state and legal profession. Among those in attendance were members of the judiciary (both the appellate courts and the trial courts); a number of State Bar past-presidents and current councilors; district attorneys and public defenders/criminal defense lawyers; members of the legal services community, including representatives from Pisgah Legal Services, Legal Aid of North Carolina, and Indigent Defense Services; representatives from the state's law schools; law students; representatives from the North Carolina Bar Association and Lawyers Mutual; and an impressive assortment of practicing attorneys from small and large communities. Chief Justice Newby began the discussion with a poignant reminder that most lawyers entered the profession to serve individuals and our communities, and we must continue to ensure that we are serving all our communities across the state. Over the course of

four hours, attendees heard from some 30 speakers, each offering a different perspective or a different solution. Some of the summit's attendees highlighted the difficulties faced by our legal desert communities, ranging from the minimal number of lawyers available for constitutionally guaranteed criminal defense representation via court appointed counsel, to the difficulty affording or even locating a lawyer to do simple but necessary civil tasks. Others offered different solutions or structures to make legal services more available or more affordable in smaller communities. The following is a sampling of the experiences and ideas shared by various attendees from different practice areas:

- Many lawyers have decided to remove their names from the court-appointed lists, creating a shortage of court-appointed counsel that has caused the remaining lawyers on the lists to manage larger caseloads and the





potential to cause delay in the representation of their clients. And, as Chief Justice Newby often reminds, “Justice delayed is justice denied.” Mary Pollard, executive director of North Carolina’s Indigent Defense Services, shared with the attendees at the summit that 61 counties in North Carolina currently rely on court-appointed counsel to handle cases for indigent individuals within their communities. She provided a grim example from a rural county where there were no court-appointed lawyers available to receive an appointment for two weeks. While Ms. Pollard briefly touched on IDS’s long-term plan to open more public defender offices throughout the state, she also indicated that she was optimistic about utilizing help from law students.

- In the criminal practice area, elected District Attorney Ernie Lee for Onslow, Sampson, Duplin, and Jones Counties shared that the shortage of lawyers exists on both sides of the courtroom. Although there are 42 elected district attorneys in our state and approximately 677 assistant district attorneys, our prosecutorial districts are short about 11% of assistant district attorneys, equaling about 62 open positions. Mr. Lee shared that, in the last year, his legal staff has been down 25%. One solution he explored this past year was paid internships for second- and third-year law students who worked in district court. The internships were funded through the Administrative Office of the Courts. He indicated that it was a successful experiment for his office—as the students did excellent work—and successful for the students who decided they would like to become prosecutors.

- Dolph Mintz of Lenoir County spoke

about his idea to encourage competent lawyers who have decided to remove themselves from the court-appointed list to take the “Ten Client Challenge.” The goal is to challenge each lawyer to take ten cases for indigent clients, and thereby be a part of the solution. Mr. Mintz shared that he had spoken with a local judge within his district who understood that he and a handful of other lawyers were willing to take the challenge, and the judge met the opportunity with an appreciative, optimistic attitude towards these volunteer lawyers and appeared willing to consciously appoint volunteer lawyers to cases that would ensure these lawyers kept coming back to the challenge.

- Rich Gittings of Bull City Legal Services spoke about how his firm is working to provide services to individuals who do not qualify for free legal services through IDS or Legal Aid, but also cannot afford a lawyer’s regular rates for complete representation. The firm uses a sliding scale to determine how much each prospective client will be asked to pay for its services. The less an individual makes, the less they have to pay. Sarah Beth Withers of Inner Banks Legal Services also shared that she operates a similar sliding-scale firm in Washington, North Carolina. She explained that, because most sliding-scale firms are organized as 501(c)(3)s, her firm can determine the price point at which a client will pay based on the client’s income level. This model has, in her experience, generated tons of referrals because the referral sources know that the members of her community can afford their services, regardless of their income. She also explained that it is a sustainable business model with many benefits. These non-profit

law firms can operate from a mixed-money basis, which can include donations and grants in addition to the fees received from clients. The firm’s lawyers can also qualify for public service loan forgiveness.

- Mark Atkinson, the director of Incubator for Legal Practice and Innovation (ILPI), focuses on new business models for lawyers. ILPI is a 12-month program that offers support to these lawyers in the form of business management training, free access to LexisNexis, free access to CLIO case management software, free access to CLEs, strategic planning, and professional connections with other practitioners who may serve as mentors. He described that ideal candidates for the incubator are 1) newly licensed attorneys or 2) licensed attorneys with anywhere from two to ten years of experience looking for assistance starting their own firm.

State Bar President Marci Armstrong actively practices law in eastern North Carolina, and she has seen how the problem affects rural communities. Armstrong is not only interested in putting lawyers in rural communities to serve community needs, but her experience has inspired her to highlight the unique experiences that only a rural practice can provide to lawyers. Armstrong said, “I believe it’s important that we develop a long-term plan to encourage and assist lawyers to set up shop and become a part of the fabric of life in small, rural communities.” She added, “Those of us who practice in these communities know the benefits and joy of this path, but we must get the message and support out to our next generation of lawyers.”

CONTINUED ON PAGE 53



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“Blackbeard’s Law:” Did North Carolina Pirate Shipwreck Footage?

BY ALLIE M. CRAVER

On June 30, 2023, North Carolina Governor Roy Cooper signed the repeal of “Blackbeard’s Law,”

which had controversially placed videos and images taken of North Carolina shipwrecks in the public domain. Prior to the

governor’s signature, the General Assembly of North Carolina unanimously passed the measure, which was among numerous items related to North Carolina’s Department of Natural and Cultural Resources (DNCR) as part of House Bill 168.¹ More specifically, some believe that the repeal measure was intentionally submerged at page 11 of a 24-page bill.²

Blackbeard’s Law was in effect for eight years and many held its adoption as a move by the state in response to ongoing copyright litigation with underwater videographer Frederick (“Rick”) Allen and his film company, Nautilus Productions, LLC.

Allen alleges that the state infringed his footage and images related to the discovery

and exploration of the shipwreck the Queen Anne’s Revenge, which belonged to the infamous pirate Edward “Blackbeard” Teach. Blackbeard and his crew were able to escape from the Queen Anne’s Revenge as the ship sank off the coast of North Carolina in 1718.³ Lying on the sea floor for over 300 years, the wreckage was discovered in

Beaufort Inlet by Intersal, Inc., a private research firm, in 1996.⁴ At the time, Intersal was operating under a permit obtained from DNCR.⁵ Upon the discovery, the state and Intersal reached an agreement for the use of photographs and videos of the wreckage. Intersal then entered into a contract with Allen to obtain exclusive video of the salvage



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process. Allen registered 13 separate copyrights related to the 17 years he spent documenting the salvage process.⁶

In 2013, Allen objected to the state's usage of video material documenting the salvage online and commenced sending DMCA takedown notices.⁷ Allen, Intersal, and DNCR reached a settlement agreement that established the parties' respective rights to the footage, permitted use of the content on various state-owned websites according to a strict set of rules, and the state paid Allen \$15,000 as part of the arrangement.⁸ However, Allen contends that further infringement by the state occurred after the settlement via new or reposted content on the DNCR website, and, ultimately, Blackbeard's Law, which was passed in 2015, was an attempt to legalize the state's own pirating, which read:

All photographs, video recordings, or other documentary materials of a derelict vessel or shipwreck or its contents, relics, artifacts, or historic materials in the custody of any agency of the North Carolina government or its subdivisions shall be a public record pursuant to Chapter 132 of the General Statutes. There shall be no limitation on the use of or no requirement to alter any such photograph, video recordings, or other documentary material, and any such provision in any agreement, permit, or license shall be void and unenforceable as a matter of public policy.⁹

Following the passing of Blackbeard's Law, the state resumed online use of Allen's video and Allen sued for copyright infringement. In 2017, the United States District Court for the Eastern District of North Carolina agreed with Allen, finding the Copyright Remedy Clarification Act (CRCA) abrogated the state's sovereign immunity from copyright lawsuits and ruled Blackbeard's Law unconstitutional.¹⁰ However, the United States Court of Appeals for the Fourth Circuit overruled the lower court and held that the attempted reversal of state immunity under the CRCA was invalid.¹¹ Allen filed a *writ of certiorari* seeking guidance from the United States Supreme Court.

In 2020, the Supreme Court ruled unanimously that the CRCA was unconstitutional.¹² Writing the decision, Justice Kagan cited the 1999 US Supreme Court decision known as *Florida Prepaid* in her writing, where the Court concluded states are protected from

individual suits for patent and copyright infringement pursuant to Article 1 of the Constitution.¹³ The Court, upholding its own precedent, reaffirmed state immunity from copyright lawsuits. Yet, the case survived as the Supreme Court had not weighed in regarding due process violations. Justice Kagan suggested if due process violations exist, Congress should enact a "tailored statute" that "can effectively stop states from behaving as copyright pirates."¹⁴ Justice Breyer, writing in one of the two concurring opinions on behalf of himself and Justice Ginsberg, disagreed with the precedent, stating it is not unconstitutional for Congress to require states that "have pirated intellectual property...to pay for what they have plundered."¹⁵

Allen returned to the district court for permission to amend his original complaint in order to allege the state had deprived him of his property without due process of law. US District Court Judge Terrence W. Boyle agreed and Allen filed his amended complaint on February 8, 2023.¹⁶ With respect to the counts added, Allen alleges that Blackbeard's Law: (i) "is a garish trespass on the Takings Clause of the Fifth Amendment to the United States Constitution and the Due Process Clause of the Fourteenth Amendment to the United States Constitution;" (ii) "is an unconstitutional Bill of Attainder and *ex post facto* law;" and (iii) "functionally prevents Allen from engaging in any future work in his chosen profession."¹⁷ Further, Allen is seeking: (i) a "declaratory judgement that Blackbeard's Law is and always has been unconstitutional;" (ii) "just compensation for the state's takings of his property, both physical and intellectual, and for the state's takings of his livelihood;" and (iii) "an order to enjoin state actors from engaging in further copyright infringements or takings."¹⁸

On July 28, 2023, the state confirmed the repeal of Blackbeard's Law in a "Reply to Plaintiff's Response..." as they argued Allen's claims for injunctive or declaratory relief are now moot.¹⁹ Allen is not alone in his ongoing actions against the state. Intersal filed a breach of contract lawsuit in North Carolina's Business Court against the state and DNCR, which trial date is set for February 19, 2024.²⁰ Blackbeard, one of the most notorious sea robbers, would find this long piracy battle over the footage of the Queen Anne's Revenge quite amusing as he himself stole the ship before its abandonment.²¹ ■

Allie M. Craver is a North Carolina attorney and intellectual property manager at Pérez Art Museum Miami. Blending her master's degree in art history with her legal background, she provides guidance and consulting services in art law, intellectual property, and digital media.

Endnotes

1. S.L. 2023-70, § 11.
2. *Id.*
3. Queen Anne's Revenge Conservation Lab, *The Ship's Journey*, qaronline.org/history/ships-journey (last visited Aug. 25, 2023).
4. *Id.*
5. *Id.*
6. *Queen Anne's Revenge/Blackbeard Shipwreck Underwater Footage* ("Footage"), Registration No. PA0001694134; *Footage 1999*, Registration No. PA0001846427; *Footage 2000*, Registration No. PA0001846499; *Footage 2001*, Registration No. PA0001846497; *Footage 2004*, Registration No. PA0001846494; *Footage 2005*, Registration No. PA0001846473; *Footage 2006*, Registration No. PA0001846465; *Footage 2007*, Registration No. PA0001846461; *Footage 2008*, Registration No. PA0001846457; *Footage 2010*, Registration No. PA0001846462; *Footage 2012*, Registration No. PA0001846470; *Footage 2013*, Registration No. PA0001872852; *Footage 2014*, Registration No. PA0001919638.
7. Enacted in 1998 as part of the Digital Millennium Copyright Act (DMCA), the US Copyright Act outlines requirements for DMCA takedowns, which operate as a "notice-and-takedown" process, that require online service providers and internet service providers to remove access to alleged infringing material upon receipt of a valid DMCA notice from a copyright owner. See 17 U.S.C. § 512.
8. Allen claims the state did not honor the settlement agreement, "did not return Allen's physical media, continued to infringe Allen's copyrights, and violated numerous other terms of the settlement." Plaintiff's Second Amended Complaint 2, Feb. 8, 2023.
9. "Blackbeard's Law," N.C. Gen. § 121-25(b).
10. Copyright Remedy Clarification Act of 1990 (CRCA) codified at 17 U.S.C. §§ 501(a) & 511.
11. *Allen v. Cooper*, 895 F.3d 337 (4th Cir. 2018).
12. *Allen v. Cooper*, 140 S.Ct. 994 (2020).
13. *Id.* See *Florida Prepaid Postsecondary Ed. Expense Bd. v. College Savings Bank*, 527 U.S. 627, 119 S.Ct. 2199, 144 L.Ed.2d 575 (1999).
14. *Id.*
15. *Id.*
16. Allen also argues Blackbeard's Law "purports to 'void' any agreement that restricts Defendants' ability to use Allen's footage, and so violates the United States Constitution's prohibition on laws 'impairing the Obligation of Contracts.'" U.S. Const. art. I, §10. "See Plaintiff's Second Amended Complaint, supra note 7.
17. *Id.* at 3.
18. *Id.*
19. Stephen Carlisle, *State Attempts to Sink Blackbeard*

CONTINUED ON PAGE

NextGen Bar Exam Builds on Strengths of Current Attorney Assessments

BY TIMOTHY DAVIS

In August, law students returned to campus. This year's entering 1L class will be among the first to have the opportunity to take the NextGen bar exam, which will be administered for the first time in July 2026.

Attorneys and members of the judiciary who anticipate working with these new graduates may wonder what impact the change will have. They can rest assured that this new exam will be as rigorous as the current exam in assessing doctrine: it will continue to test essential black-letter law, as well as fundamental tenets of professional responsibility in applied contexts.

Additionally, the NextGen exam will test an expanded range of foundational lawyering skills, making it a powerful tool to assist state supreme courts in determining who is competent to practice in today's legal profession.

The consensus of practicing attorneys, members of the judiciary, and bar examiners is that candidates should possess both fundamental lawyering skills and foundational legal knowledge to be considered minimally competent to begin practice. Law schools are already preparing their students to be practice-ready from the start with programs like law clinics and field placements. Through enhanced skills testing, the NextGen bar exam will recognize the work being done by law schools to prepare graduates to competently represent their clients.

The addition of more robust skills testing to the NextGen exam does not, however, mean that the new exam has stopped testing the important legal knowledge that every



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new lawyer should have, as is evident in the sample questions and content scope outlines for the new exam that were released recently by the National Conference of Bar Examiners (NCBE). Rather, it reflects agreement across the profession that knowledge and skills are essentially interconnected in the work that new attorneys must be prepared to perform.

The NextGen exam will include some question types that will already be familiar, building on the strengths of the current exam:

- Longer writing tasks modeled on the current Multistate Performance Test (MPT), in which examinees are asked to draft legal documents such as memoranda in response to a set of provided materials. Longer tasks are

a powerful tool for testing skills that cannot easily be assessed using short questions alone. These tasks will make up approximately one quarter of the new exam and will continue to feature assignments that lend themselves to Issue, Rule, Analysis, Conclusion (IRAC)-style written analysis.

- Multiple-choice questions, including
 - a new type of question designed to assess examinees' application of legal skills to doctrine, recognizing that competence in skills such as issue-spotting is crucial in its own right; and
 - Multistate Bar Examination (MBE)-type questions that require examinees to apply fundamental legal principles and legal reasoning to analyze given fact patterns.

Multiple-choice questions provide a time-tested method of efficiently gathering a large amount of evidence about examinee competence. Multiple-choice questions, including those contained within integrated question sets (described below), will comprise approximately half of the new exam.

Additionally, the exam will include a new type of question that will test both legal doctrine and skills in a format consistent with the types of cases examinees will likely see within the first three years of their practice:

- Integrated question sets, which require examinees to respond to a series of questions testing both knowledge and skills in response to a provided client scenario. Integrated question sets are expected to take up just under one third of the total exam time and will also include questions that require examinees to apply IRAC-style legal reasoning.

Of the three types of questions, two (multiple-choice questions and integrated question sets) will integrate knowledge of black-letter law with skills testing to provide a complete picture of readiness to practice. The performance tasks, like the current MPT, will focus on skills testing within a “closed universe” in which legal source materials are provided.

One thing that won’t change with the advent of the new exam is the score portability offered by the current Uniform Bar Exam, or UBE. Candidates who take the NextGen exam will be able to transfer their qualifying scores to any other jurisdiction that uses the exam, eliminating the need to retake the bar exam in additional jurisdictions. Since 2011, when the UBE debuted, over 50,000 examinees have transferred their scores to other UBE jurisdictions. Last year alone, over 5,600 UBE scores were transferred. As with the current UBE, jurisdictions that adopt the NextGen exam will have the option to include a jurisdiction-specific law component in their exams, requiring examinees to also demonstrate knowledge of local law.

NextGen exam scores will continue to have the reliability and stability for which North Carolina exam materials have always been known. A new score scale will be developed to account for the addition of new types of questions and other changes to the exam, and each jurisdiction will determine the appropriate NextGen passing score for its own examinees, reflecting the standards in both knowledge and skills that it deems appropriate

to new members of its bar.

NCBE has already received valuable feedback on the published content scope outlines and sample questions; more opportunities for conversation about the new exam will be available as additional sample questions and other exam details are released in the months ahead. Additionally, extensive pretesting and statistical analysis of all NextGen exam questions prior to the 2026 launch will ensure that the exam does what it is designed to do: help jurisdiction supreme courts determine which examinees possess the knowledge and skills to begin legal practice.

Professor Timothy Davis (Bess and Walter Williams Professor of Law) teaches contracts, sale of goods, sports law, and NCAA rules compliance and enforcement at Wake Forest University School of Law. He is one of the country's best known sports law scholars. He has co-authored Sports Law and Regulation: Cases, Materials, and Problems (Wolters Kluwer) and The Business of Sports Agents (Univ. of Pennsylvania Press), is the author of numerous law review articles, and frequently presents papers and lectures at academic conferences. In June 2022, he was appointed to the Board of Trustees of the National Conference of Bar Examiners.

Response from the Association of Academic Support Educators: *The Association of Academic Support Educators (AASE) has serious concerns about the prototype questions released by the National Conference of Bar Examiners (NCBE) for the NextGen bar exam scheduled to be administered in July 2026.*

The NCBE's Testing Task Force, in their final report released in April 2021, recommended less emphasis on memorized material and greater focus on lawyering skills to more reflect the practice of law. NextGen purportedly tests applicants on skills they actually need to be successful attorneys. Unfortunately, the recently released exam structure and 14 questions do not fulfill that promise.

Significant memorization will be required on the NextGen bar exam. The NCBE outline displays some topics in each subject with a star and some without a star. The legend explains the meaning of the star versus no-star topics: “Topics without a star symbol may be tested with or without provision of legal resources. When these topics are tested without legal resources, the examinee is expected to rely on recalled knowledge and understanding that will enable the examinee to demonstrate recognition

that the topic is at issue in the fact scenario.” Since the language indicates non-starred areas may require memorized knowledge, applicants must memorize everything.

The July 11, 2023, and August 18, 2023, releases create additional uncertainty regarding the exam. In the July release, the multiple-choice section of NextGen bar exam was described as, “Initially, many of these questions will closely resemble Multistate Bar Examination (MBE) questions; this will ensure stability between scores for the current and NextGen bar exams. In future administrations, the variety of multiple-choice question types will increase.”

The statement raises a significant concern. Graduates will be preparing for an exam that is quite literally a moving target. The NCBE provided no information about how the “variety of multiple-choice question types will increase.” They only provided 14 questions to represent countless rules and skills. Graduates and law schools do not know what that variety looks like, how significant the increase is in variety, and how it will impact studying. In the August press release, the exam structure once again changed from previous announcements clearly illustrating the moving target. For a high-stakes licensure exam, a moving target with so few examples released in advance is inappropriate. Graduates have the right to know the exact makeup and nature of the exam they will take and have access to ample practice questions produced by the licensing authority.

AASE appreciates the NCBE attempting to modernize the bar exam to reflect the actual practice of law and decrease the disparate impact on certain populations. While their goal is virtuous, the current prototypes fall short of satisfying the Testing Task Force's recommendations. AASE respectfully encourages all licensing agencies to fully analyze this assessment and consider whether alternative methods of licensure are more appropriate.

Blackbeard's Law (cont.)

Infringement by ‘Deep Sixing’ the Law They Passed to Claim the Copyrights, Nova Southeastern University (Aug. 10, 2023), copyright.nova.edu/blackbeard.

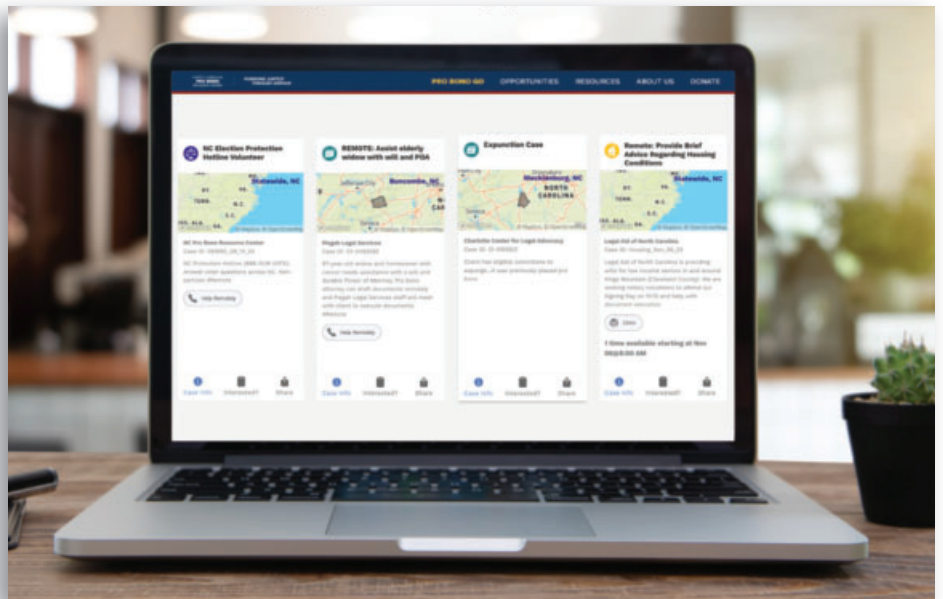
20. Notice of Jury Trial 1, Mar. 27, 2023.

21. Before the Queen Anne’s Revenge became Blackbeard’s flagship, it was a French slave ship named La Concorde. See Queen Anne’s Revenge Conservation Lab, *supra* note 3.

Introducing Pro Bono Go, NC's New Tool for *Pro Bono* Matchmaking

BY MARY IRVINE AND SYLVIA NOVINSKY

In October, the North Carolina Pro Bono Resource Center launched Pro Bono Go in partnership with three legal services providers in North Carolina—Charlotte Center for Legal Advocacy, Legal Aid of North Carolina, and Pisgah Legal Services. Sylvia



Novinsky, director of the NC Pro Bono Resource Center, a program of the NC Equal Access to Justice Commission, shared more with Mary Irvine, executive director of NC Interest on Lawyers' Trust Accounts (NC IOLTA), about this new resource to help North Carolina lawyers to do *pro bono*.

Q: I want to hear about the new exciting tool that launched this October, but first what is the Pro Bono Resource Center?

The NC Pro Bono Resource Center is a program of the Equal Access to Justice Commission. Our mission is to harness the power of volunteer legal professionals to target unmet legal needs by promoting, sup-

porting, and developing *pro bono* opportunities. We convene the NC Pro Bono Coordinators' Network with participants from the private and public sectors. We incubate and create *pro bono* projects such as our Driver's License Restoration Project, disaster assistance, and COVID-related *pro bono* projects. We also provide technical

assistance to support those launching new projects or improving existing ones. And we recognize *pro bono* lawyers through our social media and by coordinating voluntary *pro bono* reporting and recognition of those lawyers and paralegals who do 50 or more hours of *pro bono* service in a year.

We are very excited to share a new project

"We are so grateful for the partnership of the NC Pro Bono Resource Center and our sister legal services organizations. Pro Bono Go provides a single place for legal professionals to find pro bono opportunities, which makes it easier for volunteers to engage with our organizations. The easier we can make it for volunteers, the more likely they are to serve, meaning that we can all help more clients together than we can separately."

—Alison Constance, Director of Pro Bono Programs, Legal Aid of North Carolina

that is an online tool we hope will make it easier for legal professionals to engage in *pro bono* service.

Q: Tell me about this new tool, Pro Bono Go. What is it and how do you think it will help increase *pro bono* in our state?

Legal professionals can now visit one website—Pro Bono Go—to find *pro bono* opportunities from the state's civil justice organizations. Volunteers can search and filter opportunities by keyword, location, practice area, type (ex: cases, clinics, etc.), and sponsor organization. Volunteers can also set up customized email alerts when new opportunities matching their preferences hit the site. Pro Bono Go is a pilot project by Charlotte Center for Legal Advocacy, Legal Aid of NC, Pisgah Legal Services, and the NC Pro Bono Resource Center.

Q: How exactly does it work for attorneys that want to take a case?

Just visit probonogo.org. Interested users can scroll through *pro bono* cases, projects, and clinics posted by Charlotte Center for Legal Advocacy, Legal Aid of NC, Pisgah Legal Services, and other legal services providers. If a lawyer is interested in volunteering, they click on "Interested" and submit their name, email address, and bar number. That information will be sent to the legal services provider, and someone will get back to them with more information such as training materials and the name of the adverse party to start a conflict check if appropriate.

Volunteers can also set up customized email alerts so new opportunities matching their preferences can be sent to them. All they need to do is click on "Notify Me,"

submit their email address, and indicate the subject matter areas of interest.

Q: We know attorneys want to be mindful of various ethical rules and using a new system means understanding how the system works in light of their ethical obligations. Is there a process for a conflict check through Pro Bono Go?

Conflict checks are done between the legal services provider and the volunteer attorney. This will happen after the volunteer submits an interest form. There are no party names or other identifying information on the platform.

Q: What about malpractice insurance? Are volunteer lawyers who take a case covered?

Charlotte Center for Legal Advocacy, Legal Aid of NC, and Pisgah Legal Services generally offer malpractice insurance to their volunteer attorneys. However, if there is an

opportunity that is posted for which an organization does not offer malpractice insurance, this will be communicated to the volunteer.

Q: OK, so you convinced me, Sylvia. How do I sign up for Pro Bono Go?

Just GO to probonogo.org.

Q: Lastly, for attorneys who are hesitant to sign up because they are worried they might be inundated with emails or requests to take cases, what would you tell them?

Volunteers can control what information is sent to them. The goal is for Pro Bono Go to be a one-stop hub for *pro bono* cases, projects, and clinics. We know that lawyers are busy, but they also want to find volunteer opportunities that are interesting to them. When NC legal professionals think "*pro bono*," we want them to think 'Pro Bono Go'. ■

"Thousands of people across our state who cannot afford an attorney are desperate for help and can benefit from Pro Bono Go. We work with hundreds of local attorneys who assist our clients pro bono, and we witness the life-changing work they do to help people with low incomes navigate complicated legal systems."

—Katie Russell Miller, Managing Director of
Community Engagement, Pisgah Legal Services

The Forgotten History of Wyatt Outlaw and Governor William W. Holden

BY WADE HARRISON

There are times
when the
actions of
courageous

people change the course of history, and
their stories are buried for the sake of histo-
ry. So it has been with William Holden and



keuron2001/istockphoto.com

Wyatt Outlaw. William Holden was the first elected Republican governor of North Carolina and only one of two in the next 100 years. The other a free Black man from Alamance County who so effectively subverted the notion of white supremacy that it cost him his life. Outlaw's lynching precipitated the events that led to the end of federal reconstruction in North Carolina and the impeachment of Governor Holden.

Wyatt Outlaw was born in Alamance County in 1816. His father was 26-year-old Chesley Faucett. His mother was a 23-year-old woman named Jemimah Phillips of mixed race thought to be from a family of

free people who resided in nearby Caswell County. Chesley became a merchant, large landowner, tobacco farmer, and slaveowner. By 1860 he was the sixth richest man in Alamance County. Before Alamance was cre-

ated from Orange, Faucett served as a justice of the peace for Orange County and shared the bench with Thomas W. Holden, who owned a mill on the Eno River. Outlaw was raised in the household of George Outlaw on

a farm on Jordan Creek about a mile upstream from the Faucett mansion. He learned to read and write and became a skilled tobacco farmer, woodworker, and entrepreneur.

Willam Woods Holden was born to Thomas W. Holden and Priscilla Woods in 1818. His parents never married, though Holden was raised in Hillsborough by his stepmother, Sally Nichols Holden, after his sixth birthday. He apprenticed as a “printer’s devil,” which led to his career as a journalist and politician. Holden earned his law license in 1841. He remained in the newspaper business, and in 1842 purchased the *North Carolina Standard*, the official publication of the North Carolina Democratic party. Holden worked tirelessly for the party and helped establish its dominance in the state. He was an early and strong supporter of Zebulon Vance. He supported secession, but changed his mind as the Civil War ground on. He supported expanded suffrage, women’s rights, and the rights of poor and disabled people. He envisioned realigning the economy of the state from domination by agrarian interests to an industrialized economy offering greater opportunity for all. Holden’s progressive ideas offended powerful Democrats, and the party rejected him from leadership. Ultimately, Holden advocated that North Carolina abandon the Confederacy and sue for peace before unconditional surrender was inevitable. The Democrats denounced Holden as a traitor, and he turned to the Republican party.

Wyatt Outlaw’s recorded public life began at the close of the Civil War during the period of “reconstruction.” He was a member of the Union League, a civic organization that aided formerly enslaved people in their quest to be good citizens. He organized the league in Alamance County and assisted organizing chapters in other counties. He helped start a church in Graham, which became Wayman’s Chapel. He was respected by both Blacks and white people who were sympathetic with equal rights for Black people. By all accounts, Wyatt Outlaw was an industrious, talented, and prosperous man respected for his honesty and public spirit. Outlaw met W.W. Holden at the North Carolina Freedman’s Convention in 1866. After Holden was appointed governor by President Johnson at the close of the war, he appointed Outlaw to the Graham town council.

Governor Holden welcomed investment

from the north to rebuild the North Carolina economy. He led the Republican party’s efforts to bring Black people to the polls and include them in the government. On the strength of the Black vote, Holden was elected governor in 1868 for a four-year term pursuant to the new state constitution. That same year, Wyatt Outlaw was elected to the Graham council. Black people were elected to public offices across the state and were quickly becoming assimilated into the civil government. The idea that Black people could have the same role in society as white people was unthinkable to many. Wyatt Outlaw, the Union League, and the Republican party posed threats to antebellum social, economic, and political systems, which led to the organization of a terrorist response against Black people and whites who supported them by an organization eventually known as the Ku Klux Klan.

The Klan pursued its objective in Alamance County and elsewhere with terrible effectiveness. Members disguised themselves and their horses with robes, peaked hoods, and horns. They insisted to victims that they and their horses were ghosts of the Confederate War dead at Shiloh. They used sexualized torture to break the bonds of loyalty and community within the Union League and Republican Party, and between the races in general. Men were stripped naked, tied, beaten, and hanged. They blackened half the faces of white men and shaved their beards, all to emasculate and dominate them by force. In 1868 when Holden was elected governor, there were three white terrorist organizations active in Alamance County working to prevent Black people from enjoying the rights of citizenship, participating in the government, obtaining an education, and exercising their right to vote. They called themselves the White Brotherhood, the Invisible Empire, and the Constitutional Union Guard, but they all were part of what became known as the Klan.

During 1868 and 1869, many white citizens of Alamance County joined one or more of these groups, including the sheriff. The transcript of the impeachment trial of Governor Holden contains firsthand testimony about scores of acts of Klan terror. A United States Senate Select Committee reported that between 1868 and 1870 there were 55 beatings and four murders in Alamance County alone. Of those, 48 vic-

tims were male. The county Klan was organized into ten “camps.” To create plausible deniability, members of one camp having a motive for violence against a particular individual would ask members of another camp to perpetrate acts of violent retribution against the person.

While other members of the Union League urged violent recrimination by newly freed Black citizens, Outlaw opposed this and was able to keep most of his colleagues in line. The Graham Town Council appointed Outlaw constable and authorized him to keep the peace. The White Brotherhood ordered a demonstration of force in Graham in March 1869. Outlaw and another Black constable, Henry Holt, fired shots at the disguised riders, and they retreated.

Republican T.M. Shoffner was elected to represent Alamance County in the North Carolina Senate in 1868. He introduced a bill that became law in 1870 known as the Shoffner Act. It made it a crime to go about in disguise, and it authorized the governor to declare martial law and suspend the writ of *habeas corpus* if necessary to combat organized terrorism. In response, the White Brotherhood ordered Shoffner’s assassination, and members tried several times to kill him. He escaped, left all he had, and moved to Hendricks County, Indiana, for fear of his life.

Outlaw was a threat to the objectives of the White Brotherhood. He was living proof that their contempt for the abilities of African Americans was misplaced. As an entrepreneur, civic leader, and family man, his success was subversive to the “truth” of white supremacy. Worse, he was helping other Black people succeed in getting an education, and adapting to—even flourishing in—the white dominated economy and culture. Wyatt Outlaw was particularly dangerous to the cause of white supremacy because he urged Black people and their white colleagues to be peaceful and law abiding and not to succumb to the lawlessness that defined the Klan. After all, he was a law enforcement officer.

Wyatt Outlaw opened a bar in Graham to serve both Black and white employees of the North Carolina railroad. These men were paid in gold for their efforts to rebuild the rail infrastructure destroyed in the war. The Company Shops camp of the White Brotherhood, probably including other bar owners, demanded that he be killed. The



leader of the White Brotherhood agreed, and the Hawfields camp was ordered to assassinate Outlaw.

So, it happened on February 16, 1870. A large contingent of white robed men entered Graham. They placed pickets on all four roads leading into the town. A group of them forcibly entered his home. He only had time to put on a pair of purple-colored trousers before they dragged him out of his house. One of the hooded intruders struck his mother and knocked her to the floor. They ignored the pleas of his children and dragged him out of his house and down the block to court square. They aimed to lynch him, but nobody had any rope. They took rope from a bed in the other Black constable's house, fashioned a noose, and threw it over the limb of an Elm tree located on the southwest side of the courthouse. Someone took a knife and slashed Outlaw's face around his mouth symbolically silencing what he stood for. They hanged him and placed a sign around his neck that read, "Beware ye traitors both white and black."

Outlaw's body hung from that limb all night into the morning for the people to see. Finally, the clerk of court, who was a friend of Outlaw, took the body down and placed it in the courthouse. The elected commissioners of Alamance County wrote a letter to Governor Holden begging that he impose martial law.

Outlaw's death, together with the murder of John Stephens (the elected Republican state senator from Caswell County), prompted Holden to declare martial law in the Piedmont. Holden sought the advice of the Grant administration regarding the legality of the Shoffner Act. After being assured that the Grant Administration considered it valid, he invoked his powers under it and

engaged a former Union commander, George Washington Kirk, to raise a militia to deal with the violence in Alamance and Caswell Counties. On the authority of Holden, Kirk and his militia—comprised of some 300 Union Army veterans from East Tennessee and western North Carolina—arrested those reported to have been involved in the murders of Outlaw and Stephens, and held them for court martial. Thirty members of the White Brotherhood, Invisible Empire, and Constitutional Union Guards armed themselves and marched on Pittsboro to drive Kirk's militia out of that town. Kirk rebuffed the attack and chased members of the Klan into the woods, killing several. There were other skirmishes, but no serious armed challenges. The Klan took the battle to court.

Richmond Pearson had been elected to the North Carolina Supreme Court under the 1868 constitution. He had served on the Court during the war and refused to recognize the Confederate government's suspension of *habeas corpus*. Some of those arrested and held in Alamance County petitioned the North Carolina Supreme Court for a hearing, and the chief justice issued a writ of *habeas corpus* requiring Holden to deliver the arrested men to the Supreme Court. The governor refused, citing his authority under the Shoffner Act. Chief Justice Pearson was prepared to leave it at that, but was faced with the threat of impeachment himself. The men of the Klan also petitioned the United States District Court for a writ of *habeas corpus*. The federal judge ruled that the portion of the Shoffner Act suspending *habeas corpus* was unconstitutional. The Grant Justice Department changed its position and refused to challenge the ruling.

The terrorism worked. Former Confederates controlled the 1870 elections and the legislature. They wasted no time repealing the Shoffner Act and drawing articles of impeachment against Governor Holden. They accused him of breaking the law by refusing to honor the writ of *habeas corpus*, among other things. The transcript of the trial of William W. Holden fills three volumes. Both victims and perpetrators of the terror were called to testify in his defense. These stories, punctuated by objections and legal argument, fill all of one volume and part of another. The first hand and contemporaneous accounts of torture, terror, and murder are difficult to read. The election of

1870 ended any hope for justice for the victims of terror in Alamance County and elsewhere. None of the White Brotherhood were ever prosecuted. The Democratic legislature passed a law issuing pardons for all the members of the secret organizations involved.

Holden was convicted on a partisan vote, removed from office, and banned from seeking public office in the state for life. Thus ended the public career of the man who helped build the Democratic party in North Carolina, successfully advocated for the parole of all the Confederate officers from North Carolina after the war, secured the readmission of North Carolina to the Union following secession, and who made excellent progress rebuilding the state's devastated economy. Holden was magnanimous toward his political enemies in his memoir. Today, many of our citizens revile him as a traitor or have relegated his story to the dustbin of forgotten history. In the war for public opinion, the victors control the story.

In 1949 the Burlington Chamber of Commerce commissioned Walter Whitaker, then a student at the University of North Carolina, to write the *Centennial History of Alamance County*. Here is how Whitaker characterized the birth and purpose of the Klan in Alamance County,

At the close of the war, many qualified officeholders were denied political positions, and corrupt politics descended upon Alamance County as it did throughout the South....

Although the Ku Klux Klan later acquired an infamous reputation, due partially to deeds for which the Klan itself was not responsible, it was formed as an organization to protect the "rights of the South, or of the people," and to protect the homes of Confederate veterans from "Yankee scalawags and carpetbaggers" who invaded the South at this time to gather the spoils of war.

Whitaker's assessment reflected the influence of the nation-wide "Dunning School" of Reconstruction history, which formed in the early 1900s, accompanying the "Lost Cause" popular writings and the emerging Jim Crow laws of the period.

The State of North Carolina erected an official marker (pictured above) in 2006.

The title of the marker the state erected in Graham in 2006, and which stands there today, reinforces the belief that the efforts of Holden and others to advance political

equality for former slaves were to blame for Reconstruction era violence.

We who can are called to heed the words of George Santayana, “Those who cannot remember their past are condemned to repeat it.” ■

Wade Harrison is a native of Asheville. His paternal grandmother was a member of the Fanny Patten chapter of the United Daughters of the Confederacy. He practices family law in

Alamance County and serves on the North Carolina State Bar Council.

Sources

Most of the sources for this essay are detailed in Carole Watterson Troxler, *To look more closely at the man: Wyatt Outlaw, a Nexus of National, Local and Personal History*, North Carolina Historical Review October 2000, 404-433.

Contemporary sources used there include: *Albion Tourgee Papers*, Chautauqua County Historical Society, Westfield, New York.

Duke University Special Collections Library, *Ku Klux Klan Papers*.

Trial of William W. Holden, Governor of North Carolina, before the Senate of North Carolina, on Impeachment 3 vols. (Raleigh, 1871).

Report on the Alleged Outrages in the Southern States by the Select Committee of the Senate (Washington, DC, 1871).

North Carolina historians have researched and documented challenges to the early treatments of the Klan and Holden (notably Otto H. Olsen in 1962, Allen W. Trelease in 1971, William C. Harris in 1987, and Troxler in 2000).

In Memoriam

Christopher Adams
Raleigh, NC

William Boyd
Georgetown, SC

Rickey Butler
Roxboro, NC

Robert Christy Jr.
Asheville, NC

Harry Cline
Clearwater, FL

Dean Davis
Wilmington, NC

William Davis
Fayetteville, NC

Angela DeMent
Knightdale, NC

Thomas Dill
Rocky Mount, NC

Robert Emanuel
Raleigh, NC

Katherine Fisher
Asheville, NC

Walter Godwin Jr.
Tarboro, NC

James Gray
Gastonia, NC

G. Dudley Humphrey Jr.
Winston-Salem, NC

Richard Jones
Raleigh, NC

Randal Koder
Kernersville, NC

Frank Liggett III
Raleigh, NC

Frederick Mattox
Greenville, NC

Michael McCrann
Pinehurst, NC

Donald McMillion
Greensboro, NC

Thomas McNamara
Raleigh, NC

William Merriman III
Wilmington, NC

John Michaels
Raleigh, NC

Robert Millman Jr.
Richmond, VA

Fred Moody Jr.
Bryson City, NC

Thomas Morgan
Wilmington, NC

Hubert Olive Jr.
Lexington, NC

Brian Oppeneer
Appleton, WI

Malcolm Osborn
Winston-Salem, NC

Martin Pannell
Conover, NC

Frederick Parker III
Carrboro, NC

Daniel Perry III
Fayetteville, NC

William Ray
Wake Forest, NC

Lucas Riley
Gastonia, NC

Edward Schuth
Charlotte, NC

Frederick Sharpless
Greensboro, NC

Ronald Short Sr.
Winston-Salem, NC

Kenneth Smith
Pilot Mountain, NC

Albert Swain
Huntsville, AL

David Tanis
Kitty Hawk, NC

William Thornton
Raleigh, NC

Vernon Tinsley
Summerfield, NC

Michael Unti
Raleigh, NC

Donald Viets Jr.
Whiteville, NC

Robert Voigt
Wake Forest, NC

James Weeks
Greensboro, NC

George Williams
Clinton, NC

Charleene Wilson
Wilmington, NC

Honoring Our Past—50 Year Lawyers in Their Own Words

Each year during the North Carolina State Bar’s Annual Meeting, members who are celebrating the 50th anniversary of their admission to practice are honored during the 50-Year Lawyers Luncheon. Each of the honorees is asked to submit a bio of their life and career in the law, and these are published in a program for the event. Following are four essays from the class of 1973.

To read the program in its entirety, visit the State Bar’s website at bit.ly/50Year2023.

Daniel T. Blue Jr.

I have traversed a lot of territory since my birth and upbringing at my parents’ four-room farmhouse near Lumberton, North Carolina, through my past 50 years as a lawyer. After attending and graduating from the Robeson County public schools, my horizons and possibilities exploded as I enrolled at North Carolina Central University, where I pursued the dream embedded in me as a sputnik-era kid to follow the sciences in order to keep our country at a competitive advantage, and acquired a degree in mathematics with concentrations in physics and chemistry. Although I knew no lawyers growing up, I knew of and admired Terry Sanford and Thurgood Marshall. They appeared to be among the figures most relevant to the issues informing my life in the early to mid-1960s.

I occasionally thought of them as I grew acclimated to NCCU and a new and more engaged environment. Lawyers’ names were often bandied about in our late night dormitory discussions; law students were integrated

into the student body; former NCCU student leaders who had become lawyers and were becoming high profile—Julius Chambers, Floyd McKissick, and James Ferguson—were names familiar to activist undergraduate students. So, by the end of my junior year, my interests had begun shifting from graduate studies and a career in math and science to one in law. The 1968 assassinations of Martin Luther King and Bobby Kennedy reinforced my emerging beliefs that law could be the most impactful way to make meaningful contributions to our state and country, whether through leadership or the active engagement in the practice of law. My years at Duke Law School reinforced that belief.

Fortunately, 50 years ago the lawyers at then Sanford Cannon Adams and McCullough sensed that drive in me and enabled me to practice law with Terry Sanford, who exuded leadership as governor of North Carolina during my crucial development years and as president at Duke during my years at NCCU and Duke. The sense of service Terry Sanford displayed was obvious in the expectation that

all the lawyers in the firm would embrace a sense of service in the community in addition to practicing high quality law. That expectation continued with my partners at Thigpen Blue Stephens & Fellers, and at Blue LLP. My proudest moments in my practice came when I have rendered service to clients and constituents who commented that the service far exceeded any expectation of success they ever dreamed possible.

Parallel with my practice of law over the past 50 years has been 40 years of service in the North Carolina General Assembly, where I have been fortunate to rise to the highest positions of leadership—Speaker of the House of Representatives and democratic leader of the Senate. Additionally, I served on the Duke University Board of Trustees for 16 years, including serving as chair. Those roles have consumed a great deal of my life outside of the law. But most importantly, involvement and engagement with my family has been the most fulfilling.

Perhaps the capstone is the inspiration I helped provide to our three children to

become lawyers as well as a brother-in-law, four nieces, and a nephew. Indeed, I have experienced a journey that has taken me a long way from farming the land in the shadow of that four room farmhouse.

Jesse B. Caldwell III

In basking in the memories of my 50 years in the law, I can't help but think of the book *Oh, The Places You'll Go!* by Dr. Seuss, a popular high school graduation gift for young people ready to leave home embarking on their great adventure. As I reflect on five decades in our grand profession, I marvel with the most profound gratitude and almost disbelief at "the places I went" as a lawyer in private practice, chief public defender, senior resident superior court judge, adjunct law professor, and certified mediator.

Places like crime scenes; state and federal courtrooms from the mountains to the coast; jail cells; lavish receptions; voting precincts; presidency of my local bar; and the office coffee pot at 2 am.

Places like classrooms; television stations; hospital rooms; the governor's mansion; death row; and my son's ceremonies upon being sworn in as an attorney and later as a judge.

Places like counsel tables from magistrate's court to our state Supreme Court; courthouse canteens, cornbread cafes, and hotel dining rooms.

Places like the presence of broken people entrusting me as a lawyer or a judge with their futures; the stories of the sweetest of saints and the most insidious of sinners; and the trial battlefields that have yielded the most exhilarating of victories and the most devastating of defeats.

Places like the gardens of the most wonderful nostalgia and the most sacred of sentimental memories; the altar of the most profound gratitude that I even gained admission to law school, managed to graduate, and the pass the bar exam; was never without work; and found myself in a career that has given me places, positions of power, of leadership, and offices to which I never dreamed of attaining.

Places like the landscape of virtually every emotion known to humankind; and places that are so private and personal they will dwell within the inner recesses of my soul forever.

My mind is flooded with the heartfelt remembrances of all the unbelievable people I met on the highways, byways, twists, and

turns of my journey. My heart is overwhelmed with overflowing gratitude to my God, family, loved ones, friends, and even strangers who through love, trust, and grace have given me a half century in the law. How I thank you all! I am so very grateful.

Oh, the places I went.

May the journey continue...

Jim D. Cooley

My first client was schizophrenic. She lived alone in public housing, and she often forgot to take her medications. Finally, the Housing Authority decided that after numerous episodes, she had to go. I had just arrived from a clerkship with Judge Craven on the Fourth Circuit, having been selected as a Reginald Heber Smith community lawyer fellow at Legal Aid. I was supposed to become an expert in housing law, but I knew nothing about dealing with clients. Before the eviction hearing, my client asked if the hearing was open because, if it was, some of her friends wanted to attend. "Why not," I thought to myself, "since we don't have much of a legal defense." At the hearing, lots of ladies in white dresses appeared. They took a seat on the first row, and during the hearing they appeared to be praying, softly, for my client, who on this day had taken her medications. While I thought my argument to the commissioners was decent enough, I'm pretty sure that it was the ladies in white dresses who determined the favorable outcome.

My most challenging client was a member of the KKK—the trigger man in the Klan-Nazi shootout case in Greensboro involving the so-called "Communist Workers Party." At the time of my court appointment to a case that would consume the next year of my life, I had to explain to my client that I had been a plaintiffs-side civil rights/civil liberties lawyer for almost ten years, and that, among other things, I was a cooperating attorney with the American Civil Liberties Union. He listened quietly and said, "I think you'll do just fine." As the DOJ came to the end of its case, after almost three months of trial testimony, it was my judgment—as risky as it was—that an acquittal based on self defense required that he testify. The night before his testimony, I was able to get him released so that he could have dinner with me and my family. My oldest son, then age seven, saw the tattoos from his days in the army and exclaimed, "What are those?" The interaction that followed had a calming effect on a man

who would soon be testifying for his life. Was it my skillful witness preparation that led to acquittal, or the simple act of having a meal together?

Through 38 years as a business litigator and firm leader at Womble, I carried with me the lessons learned from these and many other client experiences as a Legal Aid, civil rights, and criminal defense lawyer: listen carefully, and then set the stage for a successful outcome. I am still actively practicing, primarily as a mediator of complex business disputes, and I am still following those lessons learned long ago.

Theodore O. Fillette III

I grew up in a conservative, racially segregated society in Mobile, Alabama. My parents enrolled me in military school to avoid integration in the wake of the national exposure of Little Rock's violent resistance to integration of the schools in 1957. In military school I observed how authority and power could be exercised unjustly.

In 1964 I escaped Alabama and enrolled in Duke University. Dr. Martin Luther King spoke at the campus on 11/13/64 and enlightened me on the civil rights struggles occurring in my home state. That planted the seed for my career seeking justice for people who were suffering racial and economic injustice. After graduating as a political science major in 1968, I served in the AmeriCorps VISTA program doing community organizing in Boston. I observed that powerless people could not attain justice without skillful attorneys. I went to law school at Boston University and graduated in 1973.

My legal career began in 1973 at the Legal Aid Society of Mecklenburg County. In 1974 I filed (with co-counsel) a state-wide class action against the NC Department of Social Services in the federal district court. We sought to compel all 100 welfare offices to follow the federal law by making prompt decisions (45 days) on applications for financial assistance and Medicaid for families with dependent children. This was necessary to stop the wholesale neglect of applications by destitute mothers who waited for months to receive their benefits and were being evicted and left without utility services. The state lost and appealed to the 4th Circuit, lost, and petitioned the US Supreme Court for review. We prevailed at every stage. It was grueling but rewarding work. It brought us a series of proud moments that continued for over 15 years.

My other proudest advocacy came in 1977 when I spent almost half of my time as a novice legislative advocate in the General Assembly of NC. I drafted a bill for the Honorable Henry Frye, a house member from Guilford County (and the first Black member to be elected to the General Assembly in the 20th century in 1968). The bill created the implied warranty of habitability for all tenants in NC, which enabled thousands of poor families to have indoor plumbing, furnaces, safe wiring, and roofs that did not leak. Given that most

members of the General Assembly at that time owned rental property, it was an extraordinary achievement.

The future of our profession looks fine for the transactional specialists. The litigators, however, face a state court system that is being torn apart by corrosive politics. The General Assembly's requirement of partisan elections in our appellate courts has invited dark money, fear-mongering campaign ads, and distrust. Litigators and members of the public see court decisions driven by partisan

ideology instead of intellectual integrity. Justice and democracy are in peril in NC.

The deleterious conditions of our courts, which are supportive of toxic gerrymandering of our legislative districts and congressional seats, drive me to stress-free hobbies. Gardening, photography, fishing, and reading are my solace. I cannot totally leave behind my work of a 44-year career advocating for justice. I work as a volunteer with a local advocacy group that supports more affordable housing in Mecklenburg County. ■



IMPORTANT NOTICE REGARDING STATE BAR EMAILS

As a member of the North Carolina State Bar, you are routinely sent critical emails regarding dues notices, CLE report forms, etc. To increase efficiency and reduce waste, many reports and forms that were previously sent by US mail will now only be emailed. To receive these emails, make sure you have a current email address on file with the State Bar. You can check membership information by logging into your account at portal.ncbar.gov.

If you have unsubscribed or fear your email has been cleaned from our email list, you can resubscribe by going to bit.ly/NCBarResubscribe.

Thank you for your attention to this important matter.



Grievance Committee and DHC Actions

Disbarments

Jack W. Daly of St. Thomas, Puerto Rico, pled guilty to one count of conspiracy to violate the laws of the United States in violation of 18 U.S.C. 371 for engaging in conspiracy to commit mail fraud and conspiracy to make false statements to an agency of the federal government (the Federal Elections Commission). He surrendered his law license and was disbarred by the Wake County Superior Court.

Kathie Willard of Raleigh fabricated emails to support her denial of self-dealing in litigation wherein she was accused of improperly redirecting assets of a nonprofit for which she served as a Board member. She surrendered her license to the DHC and was disbarred.

Suspensions & Stayed Suspensions

Lonnie W. Carraway of Snow Hill drove a vehicle while under the influence of an impairing substance on two occasions between June 2019 and June 2020. In October 2020, Carraway pled guilty to two counts of driving while impaired. Carraway had previously been convicted of driving while impaired in February 2012. The DHC suspended his law license for one year. The suspension is stayed for one year on enumerated conditions.

Suzanne Nelson of Raleigh neglected her clients, collected excessive fees, failed to protect her clients' interests upon termination of the representation, made misrepresentations, did not fully respond to notices of mandatory fee dispute resolution, and did not timely respond to the Grievance Committee. The DHC suspended her license for five years. Nelson will be eligible to apply for a stay of the balance of the suspension after six months if she complies with enumerated conditions.

Dismissals

The State Bar's complaint against **Matthew S. Schrum** of Elkin was dismissed by the DHC.

Completed Disciplinary Review Panels

One disciplinary review panel met on October 27. At the January 2024 meeting, the

Grievance Committee will consider any recommendation of that review panel for a disposition that differs from the discipline that was issued by the Grievance Committee.

Censures

David A. Perez of Thomasville was censured by the Grievance Committee. After a district court judge entered an *ex parte* order temporarily granting child custody to Perez's ex-wife, Perez confronted the judge during a criminal session of court. His intemperate and inappropriate confrontation with the judge resulted in revocation of his courthouse security credentials. The motion to modify child custody was heard by a different judge. Perez repeatedly interrupted that hearing, talked over the judge, and continued to argue with the judge after she sustained opposing counsel's objections. Perez filed a motion to disqualify the judge who heard the motion to modify. During the hearing on his motion to disqualify before a third judge, Perez interrupted the judge. While the motion to modify child custody was pending, Perez also filed a Judicial Standards Commission (JSC) complaint against the judge who heard the motion. Perez frequently referenced his JSC complaint during the litigation and inaccurately characterized an upcoming JSC meeting as a "hearing" even though JSC counsel had informed him that no hearing was taking place.

Reprimands

Frederick Hadley of Hilton Head Island, South Carolina, was reprimanded by the Grievance Committee. Hadley attempted to solicit professional employment by engaging in communications with a potential client via Facebook Messenger. Several of Hadley's communications to the potential client contained material misrepresentations of fact and/or omitted facts necessary to make the communications as a whole not materially misleading.

Philip William Paine of Apex was reprimanded by the Grievance Committee. Paine failed to file a complaint before his client's claim was barred by the statute of limitations

and failed to respond to multiple calls and emails from the client. While representing a different client, Paine repeatedly misrepresented the status of the matter to the client, failed to explain the matter to the extent reasonably necessary to permit the client to make an informed decision regarding the representation, and stopped responding to the client's phone calls.

Completed Petitions for Reinstatement/Stay – Contested

Phillip Entzminger of Greenville engaged in undignified and discourteous conduct that was degrading to the court and made misrepresentations to the court. In 2021, the Pitt County Superior Court suspended Entzminger's law license for two years. Entzminger was eligible to apply for a stay of the balance of the suspension after six months if he complied with enumerated conditions. After an August 2023 hearing, the court concluded that Entzminger had substantially complied with the conditions and entered an order staying the balance of the suspension.

In 2011, **Gregory Bartko** (formerly of Atlanta, Georgia) submitted an affidavit of surrender and was disbarred by the Wake County Superior Court following his conviction in federal court of one count of conspiracy, four counts of mail fraud, and one count of sale of unregistered securities. In May 2023 Bartko, who is currently incarcerated, filed a petition for reinstatement in the DHC accompanied by motions under Rules 59 and 60 to set aside the prior order of disbarment. The DHC dismissed the petition and denied his motions. Bartko gave notice of appeal to the court of appeals.

David Shawn Clark of Hickory was disbarred by the DHC in 2013 for, among other things, having a sexual relationship with a client, filing a frivolous lawsuit alleging that the client's true statements about their relationship were defamatory, coercing the client to sign a false affidavit denying the relationship, threatening to kill his employee if she told the

CONTINUED ON PAGE 35

Elizabeth and Graham Gurnee

BY SHEILA SAUCIER, CERTIFICATION COORDINATOR, BOARD OF LEGAL SPECIALIZATION

I recently had an opportunity to talk with Elizabeth and Graham Gurnee. Elizabeth is a board certified specialist in child welfare law practicing in Durham County and Graham is a board certified specialist in state criminal law practicing in Robeson County. The married couple both became board certified specialists in their respective practice areas in 2022.

Elizabeth attended Campbell University for both her undergraduate and law degrees, graduating in 1992. She began her legal career working in private practice until 1997, when she became a guardian ad litem (GAL) attorney advocate until 2001. In 2005, Elizabeth was hired by the Cumberland County Department of Social Services (DSS) and stayed there (working remotely at times) until she was hired by Durham County in 2019.

Graham attended NC State University and Campbell University. He was in private practice for about 20 years, primarily in criminal defense. In 2011, Graham accepted a position in the District Attorney's Office in Cumberland County. He practiced as both a public defender and district attorney in New Mexico between 2016 and 2019, and he returned to North Carolina in 2019 to work in the DA's Office in Robeson County.

Q: Why did you pursue becoming a board certified specialist?

Elizabeth: To learn the nuances of the field of law even though I'd been practicing for many years. I wanted to stay at the top of my game and not become stale.

Graham: I wanted the challenge to see if I could pass. Also, I knew it would make me a better lawyer.

Q: How did you prepare for the examination?

Elizabeth: I read the recommended materials, spoke with mentors, read blogs, and read the recent statutes and administrative codes with which I was less familiar. I also read the *Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina (AND)* manual.

Graham: I read Chapter 15A and recent

caselaw.

Q: What is most rewarding and/or challenging about your work?

Elizabeth: Most rewarding is establishing safety for children and then celebrating their return to their parents or permanency through adoption or guardianship. The most challenging is the volume of work and the misunderstandings of what we do.

Graham: I like getting justice for victims. I enjoy the challenge of jury trials.

Q: How has certification been helpful to your practice?

Elizabeth: Attaining the certification has given me a depth of knowledge and resources.

Graham: I am often asked legal questions by peers, so it keeps me mentally sharp.

Q: Are there any hot topics in your specialty area right now?

Elizabeth: Whether findings as to unfit and acting inconsistently with parental rights are needed at a disposition hearing.

Q: How do you stay current in your field?

Elizabeth: By reading listserv, blogs, and caselaw.

Graham: By getting emails of recent decisions by the court of appeals and Supreme Court.

Q: What would you say to encourage other lawyers to pursue certification?

Elizabeth: Although it was a lot of work, and I was afraid of failing, it paid off because I learned more about my area of the law, challenged my assumptions, and came out with better skills to do my job.

Graham: It will make you a better attorney.

Q: What aspect of the daily job of being a lawyer most interests you?

Elizabeth: It's always a new challenge every day to apply what you know to new situations to help people.

Graham: Meeting new people and preparing their case.

Q: What career accomplishment makes you most proud?



Elizabeth: I am particularly proud of some of my appellate work. It feels great to see some of my cases make a difference statewide. Two examples are: *In re M.T.*, 285 N.C. App. 305, 2022-NCCOA-593, 877 S.E. 2d, 732. This case affirmed the termination of parental rights of a seriously injured child and his sibling. Additionally, *In re J.T.*, 363 N.C. 1, 672 S.E. 2d 17, 2009 N.C. LEXIS 113 (2009). This case established that summons related deficiencies implicate personal jurisdiction rather than subject matter jurisdiction in juvenile cases.

Graham and I actually worked together early in our careers on a NC Supreme Court case, *Nourse v. Food Lion*. He argued the case, and I worked on the brief. I understand the case is still taught with regard to its negligence holding (active vs. passive), even though we have not practiced in that area for many years.

Graham: Successfully arguing before the NC Supreme Court.

Q: What activities/volunteer groups are you involved in?

Elizabeth: I'm currently serving as president

CONTINUED ON PAGE 31

Bypassing Burnout Beliefs: Eight Steps to Transform Beliefs that Exhaust You

BY LAURA MAHR

Burnout? Ugh! No one wants it to happen to them, but many of us have been there...or are there now. Just saying, the word brings up a tangle of emotions and sensations. Anxiety. Fear. Constriction. Confusion. Exhaustion. Heaviness. Aloneness. Disappointment. Dread. When I was lawyering and experiencing burnout symptoms, I had no idea what burnout was, or that it was happening to me. All I knew is that I was exhausted, and I wanted to feel energized...and fast.

Like many attorneys, I felt too ashamed to ask for help, and too disoriented to know what kind of help to ask for. When I did ask for help, some people suggested that I simply “do less”—a recommendation that grossly underestimates the complexity of effective burnout recovery. I decided instead to stop lawyering and start researching the underlying causes of burnout. In my research, I uncovered key external factors that contribute to professional burnout—many of which were not particularly surprising. What did surprise me, however, was discovering the impact that my personal beliefs about work and success had on my inner drive that contributed to my exhaustion.

The World Health Organization (WHO) defines burnout as “a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed” characterized by three dimensions:

- feelings of energy depletion or exhaustion;
- increased mental distance from one’s job, or feelings of negativism or cynicism related to one’s job; and
- reduced professional efficacy.

In the last decade of coaching attorneys, judges, law school students, and legal professionals through burnout recovery, and through conducting continuing legal education trainings on burnout prevention, I’ve witnessed burnout exhaustion from many



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sides. Burnout exhaustion is different from the occasional day-to-day tiredness we all encounter. Burnout exhaustion differs in that it feels chronic—the kind of fatigue that a good night’s sleep or a week off work doesn’t touch. Most of us—like the WHO—consider burnout a workplace stress issue reliant upon external factors. We often think about burnout as a result of being persistently overloaded and under-resourced based on things outside of us. E.g., “I always have too much to do, not enough time to do it, and not enough help to get it done.” However, if we focus solely on what’s external to us (the “to-dos,” timelines, and people and external resources that are (or aren’t) available to help), it can increase our anxiety, push us to work harder, and drive us to the burnout kind of exhaustion and collapse.

For most of us in the legal profession going through burnout, it can feel like we are alone in our struggles—and yet interestingly, statistics show otherwise. The most recent *Bloomberg Law biannual Attorney Workload & Hours Survey* published in October 2023 reveals that “the average amount of time attorneys said they felt burned out in their jobs (48%) stayed fairly steady from last year, and,

just like last year, female respondents said they felt burnout at higher rates (56%) than male attorneys (41%).”¹

It is noteworthy that the same report shows that “two years ago, female attorneys reported spending 5.1 hours per week on self-care—1.1 hours less than male attorneys. Now, female attorneys shared that they spent 5.6 hours per week on self-care—over three hours less than the average 8.9 hours per week reported by male attorneys.” The self-care hours reported seem exceptionally low given the long and demanding hours that attorneys work. The low self-care hours indicate that attorneys are outputting a lot of time and energy with very little time spent on inputting rest and recovery...a perfect recipe for professional burnout.²

Another survey sent to all lawyers registered in Massachusetts in the first four months of 2022 found even higher burnout rates than the Bloomberg survey results from the 4,450 attorneys who responded:

- Overall, 77% of lawyers reported burnout
- 86% of female lawyers reported burnout
- 70% of male lawyers reported burnout
- 82% of caregivers reported burnout

- 74% of non-caregivers reported burnout
- 86% of Black lawyers, 88% of Hispanic lawyers, 84% of nonheterosexual lawyers, and 83% of lawyers with a disability reported burnout.³

Additionally, a 2022 study on burnout among lawyers in Utah using comparable measures found similarly high rates of burnout (75% overall burnout).⁴

The reality of our profession is that there IS too much to do, NOT enough time to do it, and MORE HELP NEEDED than what we have access to in the moments we need it. Undeniably, over time, perpetually over-functioning while being under-resourced WILL lead to burnout. And yet, if we focus solely on mitigating the overwhelming external demands of our profession and the limited influence any one of us has to change the overarching legal business model and culture, we can feel hopeless. In my case, and in the case of many of my clients, focusing solely on how to change the external factors contributing to burnout results in increased anxiety and, ultimately, resignation. We often have little control over many external factors in our work and legal culture. Feeling stuck in the complex labyrinth of external dynamics can feel intolerable for the master problem solvers that we in the legal field are trained to be.

And yet, there is an additional, yet often overlooked and under-acknowledged, internal influence in the burnout prevention equation: our thoughts about work and our beliefs about success. Certain thoughts and beliefs (conscious or unconscious) drive work behaviors and professional habits that eventually lead to burnout. I call this set of thoughts and beliefs “burnout beliefs.” While our beliefs shape our attitudes and our convictions and can feel like the truth, our beliefs can be inherited (from our families or culture) and/or outdated.

In service to our own well-being, our beliefs deserve to be examined. If we specifically examine our beliefs about professional success, we can mindfully discern if we are establishing our current thoughts, behaviors, and decision-making on in-the-now, based-in-truth inner guidance, or out-of-date and/or never-true-to-begin-with information. In doing so, we can catch our thoughts and eventually bypass beliefs that lead to chronic stress, exhaustion, and, ultimately, professional burnout. We can then, instead, choose to update professional beliefs and upgrade them with beliefs that support our well-being and stamina—and ultimately lead to professional

satisfaction and success.

Note, however, that burnout belief upgrades require patience, as it can be tricky to identify long-held beliefs that are often subtle and/or unconscious. Such beliefs may have been deeply ingrained during childhood and integral to our family’s and our cultural survival strategies. Additionally and understandably, many of us hold on tightly to beliefs that we perceive will keep us from feeling shame or humiliation (such as work beliefs connected to failure).

The most common professional burnout beliefs I hear (or have said myself!) sound like this:

- “I must be perfect at my job; something terrible will happen if I fail at this task.” (Belief that the person must excel in every aspect of their work and that making a mistake leads to failure—and that failure is inherently negative).

- “I have to work long hours to prove my worth.” (Belief that the person has no inherent worth and that the quantity of work hours is directly related to their value in the workplace).

- “My personal value in the world is tied to my professional success.” (Belief that the person’s self-worth is solely determined by their professional achievements—and often, income).

- “I have to please everybody all the time.” (Belief that others’ needs are more important than one’s own).

- “Showing vulnerability at work is detrimental to my success.” (Belief that being imperfect or needing help is embarrassing, shameful, and/or detrimental to success).

- “I must say yes to every request and always be available and responsive.” (Belief that setting and holding professional boundaries is unacceptable).

- “There’s no other option than the way I’m doing things.” (Belief that trying a new approach will lead to failure—and that failure is inherently negative).

- “Self-care is for weaklings.” (Belief that being kind to oneself and taking care of one’s own needs is detrimental to professional success and a sign of weakness instead of strength).

Try this eight-step inquiry process to help uncover and transform your burnout beliefs. When you feel tired or stuck, take a few moments and follow the inquiry process below to help discern if a burnout belief is underneath your exhaustion. Take the time to write down your answers, as it makes the

process more impactful:

1. Mindful awareness and self-reflection:

Am I aware of what I’m thinking?

What am I believing to be true about this particular situation?

How long have I held these beliefs about these kinds of situations?

The experiences or people who contributed to the formation of these beliefs are:

How do these beliefs serve me (or not serve me), my well-being, my success, and my satisfaction in the long run?

2. Curiosity:

Do I feel any resistance to changing my beliefs?

Three things I feel most resistant to changing are:

If I weren’t afraid, what would I believe?

Which of my beliefs about this situation am I willing to try to upgrade?

What is the most creative thing I can think of to believe differently in this situation?

3. Assess the evidence supporting the belief:

Are my identified beliefs based on logical reasoning? For example, is there empirical data, facts, or research that either support or contradict my belief(s)?

Is this belief true for everyone, or just for me?

Five things I would like to shift or change as a result of me upgrading my beliefs:

4. Somatic tracking:

What does it feel like in my body to hold these beliefs?

Does thinking and acting as if these beliefs are true feel physically good in my body?

Does thinking or acting as if these beliefs are true cause me unnecessary physical tension?

If yes, where in my body can I feel this tension?

What sensations am I aware of if I imagine that I am living as if my outdated beliefs are no longer true?

5. Emotional tracking:

What emotions come up as I think about the old belief?

What emotions come up as I think about changing the outdated belief?

What am I afraid will happen if I don’t hold this belief or behave in a way that supports it?

What emotions come up as I think about upgrading my beliefs?

6. Consider a different, kinder perspective:

What would it be like if I held a different belief about myself, the situation, or the people involved?

What would I believe if I was a little bit kinder to myself?

What new belief(s) could I hold that would allow me to be kinder to myself and still get the same results I'm hoping for?

What kind of beliefs would support my well-being and my success in this situation?

The upgraded beliefs that I am willing to experiment with are:

7. Self-compassion and self-affirmation:

What are three things I can do to be kinder to myself as I try on my upgraded beliefs?

In what two ways can I be more patient with myself as I try on my upgraded beliefs?

What is one positive phrase I can use to affirm myself as I live my new belief(s)?

8. Support and guidance:

Do I feel supported and guided as I upgrade my outdated beliefs?

Who can I talk to about my beliefs and my belief-changing process?

Do I need professional help to guide me through the process?

Three people who can help cheerlead and support me as I upgrade my beliefs:

NOTE: If I need help but notice I'm resistant to getting help, what are my beliefs around needing or asking for help? Go back to the top of the inquiry process!

All of the above focus on upgrading the internal beliefs that influence burnout, but this is not to say that the external factors influencing a person's professional experience and contributing to burnout should not be addressed. Burnout is a multifactorial condition requiring a multifaceted approach that includes both internal strategies and external/organizational changes, including shifts in the overall expectations set for the legal profession. External factors such as workplace conditions or a workplace culture that sets unrealistic expectations should be addressed in addition to an internal burnout belief audit.

External points of influence can take time to transform, as not everyone is on the same page about the changes needed. Alternatively, transforming personal burnout beliefs can start here and now. In the process of identifying which beliefs are working against you, it's also helpful to highlight beliefs that are working for you and how they help. In order to have survived law school, passed the bar exam, and become a practicing attorney or judge,

you must also hold beliefs that support your success and well-being, or you wouldn't be here today! You can utilize these positive beliefs as building blocks to update and upgrade burnout beliefs.

For example, try these growth mindset beliefs as upgrades to the burnout beliefs above:

- "It's ok to make mistakes. Mistakes are a part of being human and learning new things."

- "I am valuable; taking care of my needs for sleep and rest is a way to show myself I'm valuable."

- "I am proud of the times when I work hard and what I produce, and I'm also proud of the times I let myself rest and recover."

- "I have inherent value, just for being who I am."

- "It's inevitable that people will be disappointed sometimes even if I'm doing my best and taking care of myself."

- "Showing vulnerability with people who can hold space for me can build connection and deepen meaningful relationships."

- "Setting and holding boundaries helps me to work sustainably over the long haul."

- "I can try new ways of doing things and see how it goes."

- "Self-care is an integral part of professional success and builds my strength to persevere."

The next time you catch yourself in a burnout belief, walk yourself through the inquiry process and try on one of these upgraded beliefs, or come up with some that resonate with you. The more you experiment and practice, the easier it gets, and the more natural it feels to self-affirm. The best thing about a belief is that, with awareness and intention, you can upgrade and update your beliefs so that they are current and support your well-being and your success. Over time, upgraded beliefs can have a significant impact on your energy level, the way you treat yourself and others, the quality of your work, and the success of your career.

NOTE: If you would like to hear more about how to transform limiting beliefs, listen to the North Carolina State Bar Lawyer Assistance Program's *Sidebar* podcast (bit.ly/Sidebar35), in which podcast host Candace Hoffman interviews Laura Mahr about how to change a limiting belief, or read the article *10 Questions to Unearth Subconscious Stuckness and Transform Limiting Beliefs* at [nclap.org/sidebar/2023-4/mind-](https://nclap.org/sidebar/2023-4/mind-ful_moment.html)

[ful_moment.html](https://nclap.org/sidebar/2023-4/mind-ful_moment.html). ■

Laura Mahr is a North Carolina and Oregon lawyer and the founder of Conscious Legal Minds LLC, providing well-being consulting, training, and resilience coaching for attorneys and law offices nationwide. Through the lens of neurobiology, Laura helps build strong leaders, happy lawyers, and effective teams. Her work is informed by 13 years of practice as a civil sexual assault attorney, 25 years as a teacher and student of mindfulness and yoga, and eight years studying neurobiology and neuropsychology with clinical pioneers. If you are interested in learning more about burnout and how to upgrade burnout beliefs and positively transform your personal or organizational experience, contact Laura through consciouslegalminds.com.

CONTINUED ON PAGE 47

Legal Specialization (cont.)

of DSS Attorneys Association.

Graham: Spending time with family and friends.

Q: What is the single best piece of advice you've ever received?

Elizabeth: Strive to become better and never bitter. (Superior Court Judge Shamiela Rhinehart, Durham County)

Graham: Send flowers to your wife for no reason.

Q: What do you most look forward to in the rest of your lives together?

Elizabeth: Traveling and basically spending time together not working.

Graham: Having grandkids and traveling after retirement.

Q: What piece of art (book, music, movie, etc.) has most influenced the person you are today?

Elizabeth: The book called *The Four Agreements* which are: Be impeccable with your word, don't take anything personally, don't make assumptions, and always do your best.

Graham: I often quote *My Cousin Vinny* during closing argument, "Does the defense case hold water? No!" ■

For more information on the State Bar's specialization programs, visit us on the web at nclawspecialists.gov.

Hidden in Plain Sight

BY ANONYMOUS

When I think back and remember the latter part of my active alcoholism and its impact on my family, more than anything else, I think of the extraordinary amount of time I spent trying to hide my drinking. It felt like I spent almost all my time either hiding the purchase of alcohol, hiding the use of it (and then lying about the use of it), and attempting to hide all evidence—usually by throwing away all of the bottles, cans, etc. However, I knew that there were times that it was not hidden. But as a binge drinker, I somehow thought those times were relatively rare. After all, I could go months without having a drink. I thought at least while my daughters were young, they could not see as well as my wife could see the destruction that my alcoholism was wreaking. In part, the insanity and rationalization of that belief allowed me to think that the horror of my own need to drink was not being witnessed nor forced into their young minds. When the Lawyer Assistance Program got involved in my care and “suggested” that I enter

Alcoholism affects not only the drinker but also the nuclear family, the extended family, the workplace system and beyond. In rings of concentric circles, the effect of one person’s alcoholism spreads far and wide. Those people more closely associated with the drinker are typically affected more deeply and dramatically. In some cases, lawyers who grew up in alcoholic homes experienced significant trauma and exhibit symptoms of PTSD in later life. LAP can provide help and resources if you have an alcoholic partner/spouse, grew up with a parent who had a drinking or drug problem, or are otherwise negatively affected by someone else’s drinking or drug use.

rehab, my daughters were eight and 12.

Five years later my oldest daughter asked me to read an essay she drafted as part of her college and scholarship application process. It read:

When I close my eyes to remember the many birthday parties, dance recitals, and school ceremonies of my childhood, my dad is nowhere to be found. He was not there. Instead, he rested in the darkness of a cave only illuminated by the brightness of a television screen, lying on stained sheets. Beyond him lay the resting place of a hundred empty, discarded bottles of liquor. He had been like this for at least two months, and it was not the first time. My dad was trapped, not inside his cave, but inside his own mind. He was depressed; he was an alcoholic.

I lived with his alcoholism for 12 years, suffering from it, only I suffered in a different way than my dad. My dad drank the liquor, and I handled the side effects. The more he drank, the more I wiped tears away from my mother’s face, reassured my younger sister that it was not our fault, and promised myself that, one day, my dad’s problems would disappear, and I would have a normal family. I often moved through my dad’s room as if it were a haunted house, hiding my eyes from the horrific scene that sat only a few feet from where I stepped. Other times, I watched my dad. I sat in the corner of the room and listened to his slurred grievances and mumbled sorrows for hours. I prayed each night that something, anything, would happen and take the pain away from my family. Sometimes, on the worst nights, I wished my dad would die; it seemed to be the only way to end our pain.

I became numb to my dad’s situation. I knew that alcoholism was a disease, not a character flaw, and that there was nothing I alone would be able to do to fix my dad.



But even though I could not cure him, I could mitigate the pain my family felt. While my dad was sick, I felt a strong responsibility to try and make my family happy, to take away some of the strain of their daily lives. I worked very hard in school, resulting in strong academics. Good grades always brought a smile to my parents’ faces, especially my dad’s. I motivated myself to work hard each day at school, to ignore my home life, and to improve myself. I took control of my own life, to make sure that, despite my situation, I would be alright. So began the development of my sense of inner-strength and independence.

My dad left for rehab on March 21, 2011, the date of my parents’ anniversary. He stayed there for six months, working on his mental and physical health. Those six months had a profound effect on our lives. Since that day, my dad has remained alcohol free, my favorite of his accomplishments. When I call my dad after dance class to ask him, “What’s for dinner?” I am reminded of how lucky I am to have him in my life, sober and happy.

Although alcoholism plays a lesser role in

CONTINUED ON PAGE 44

Council Adopts Opinion on Billing for Overlapping Services; Committee Publishes Two New Opinions

Council Actions

At its meeting on October 27, 2023, the State Bar Council adopted the ethics opinion summarized below:

2022 Formal Ethics Opinion 4

Billing Considerations for Overlapping Legal Services

Opinion rules that a lawyer may provide services to multiple clients simultaneously and explores various billing structures for overlapping services.

Ethics Committee Actions

At its meeting on October 26, 2023, the Ethics Committee considered a total of six inquiries, including the opinion noted above. Two inquiries were returned to subcommittee for further study, including an inquiry exploring a lawyer's professional responsibility when using artificial intelligence in a law practice and an inquiry addressing a lawyer's ability to obligate a client's estate to pay the lawyer for any time spent defending the lawyer's work in drafting and executing the client's will. One inquiry concerning a lawyer-mediator's ability to draft an agreement to participate in mediation between two *pro se* parties was withdrawn. The committee also approved the publication of two new proposed formal ethics opinions, which appear below.

Proposed 2023 Formal Ethics Opinion 3 Installation of Third Party's Self-Service Kiosk in Lawyer's Office and Inclusion of Lawyer in Third Party's Advertising Efforts

October 26, 2023

Proposed opinion identifies a waivable conflict of interest for a lawyer to have a third-party business install a self-service kiosk in the lawyer's office and receive a referral fee, and further concludes that a lawyer may be included in the business's advertising efforts upon compliance with Rule 7.4.

Inquiry #1:

Lawyer's practice consists mostly of representing clients on charges of driving while intoxicated (DWI). Lawyer has been approached by a third-party business (Company) that offers ignition lock services that are often ordered by the court in DWI cases. Company wants to rent a space in Lawyer's law office to install a self-service kiosk that would allow Lawyer's DWI clients to sign up for an ignition lock serviced by the business. Company would pay a monthly rental fee to Lawyer to have the kiosk installed in Lawyer's law office. The kiosk would be entirely supported by Company, and Lawyer would have no ownership interest or control over the kiosk or the Company.

May Lawyer permit Company to rent space in Lawyer's law office and install the ignition lock self-service kiosk for Lawyer's clients to use?

Opinion #1:

Yes, provided Lawyer discloses to client(s) his financial interest in Company placing the ignition lock kiosk in Lawyer's office and obtains the client's informed consent confirmed in writing prior to the client's use of the service.

The rental fee to be paid to Lawyer creates for Lawyer a financial interest in the kiosk. Lawyer's financial interest creates a personal conflict of interest for Lawyer under Rule 1.7(a) if Lawyer's client chooses to use the kiosk. In 2010 FEO 13, the Ethics Committee opined,

Lawyer has an ethical duty to avoid conflicts created by his own personal interests. See Rule 1.7(a)(2). Rule 1.7(b) provides that a lawyer shall not represent a client with respect to a matter if the lawyer's professional judgment on behalf of the client may be materially limited by the lawyer's own personal interest. Comment [10] to Rule 1.7 specifically states that a lawyer may not allow related business interests to affect representation, "for example, by re-

Rules, Procedure, Comments

All opinions of the Ethics Committee are predicated upon the North Carolina Rules of Professional Conduct. Any interested person or group may submit a written comment—including comments in support of or against the proposed opinion—or request to be heard concerning a proposed opinion. The Ethics Committee welcomes and encourages the submission of comments, and all comments are considered by the committee at its next quarterly meeting. Any comment or request should be directed to the Ethics Committee at ethicscomments@ncbar.gov no later than December 30, 2023.

Public Information

The Ethics Committee's meetings are public, and materials submitted for consideration are generally NOT held in confidence. Persons submitting requests for a formal opinion are cautioned that inquiries should not disclose client confidences or sensitive information that is not necessary to the resolution of the ethical questions presented.

ferring clients to an enterprise in which the lawyer has an undisclosed financial interest." Rule 1.7(b) allows a lawyer to represent a client despite a conflicting personal interest if the lawyer reasonably believes his representation of the client will not be affected and the client gives written consent

after disclosure of the existence and nature of the possible conflict and the possible adverse consequences of the representation. 2010 FEO 13.

Lawyer must explain his financial interest to each client who wants to obtain ignition lock services through the kiosk and obtain the client's informed consent confirmed in writing. Rule 1.7(b). As part of obtaining informed consent, Lawyer must explain that should there be a problem with the ignition lock, such as the production of a false positive that is reported to the DMV, Lawyer's personal financial interest will prevent Lawyer from representing the client in a proceeding where Lawyer must take a position against or adverse to Company. In addition, Lawyer must explain that if the client violates the conditions of the ignition lock, Lawyer will also have a conflict that prevents further representation, and Lawyer will have to withdraw. After the aforementioned full disclosure, Lawyer may represent the client if the client consents to the conflict per Rule 1.7(b).

Inquiry #2:

May Lawyer recommend Company to his clients for ignition lock services?

Opinion #2:

Yes, provided Lawyer's recommendation of Company is in the client's best interest and is derived from Lawyer's independent judgment, and provided Lawyer discloses to clients his financial interest in receiving rent from Company and obtains the client's written informed consent pursuant to Rule 1.7(b). *See* Opinion #1.

Here, although Lawyer does not have a direct financial interest in Company's business, Lawyer has a financial interest in receiving additional rent from Company which presumably will continue if Lawyer's clients sign up for Company's services through the kiosk in Lawyer's office. As such, Lawyer has a personal conflict of interest in recommending Company to clients pursuant to Rule 1.7(a)(2). However, Lawyer can resolve these conflicts by first determining that, in Lawyer's independent and professional judgment, recommending Company's services best serves the client's interests and the client will not be adversely affected by Lawyer's personal interest in continuing the relationship with Company; and second by making the appropriate disclosures and obtaining the client's written informed consent in a manner that satisfies the requirements of

Rule 1.7(b).

The disclosures required by this opinion and Opinion #1 are closely related. Accordingly, for efficiency and clarity, Lawyer may consider providing a client with the necessary disclosures in a single written document that satisfies the requirements outlined in this opinion and in Opinion #1.

Inquiry #3:

May Lawyer receive a referral fee from Company for each client that signs up for Company's services via the kiosk in Lawyer's office?

Opinion #3:

Yes, provided Lawyer's recommendation of Company is in the client's best interest and is derived from Lawyer's independent judgment, and provided Lawyer discloses to clients his financial interest in receiving a referral fee from Company based on the client's use of Company's services and obtains the client's written informed consent pursuant to Rule 1.7(b). *See* Opinions #1 and #2; 2010 FEO 13.

Inquiry #4:

May Lawyer participate in Company's efforts to market their product, which includes listing Lawyer's name and contact information in the Company's list of providers or affiliates?

Opinion #4:

Yes, provided Lawyer complies with Rule 7.4.

Intermediary organizations are organizations that engage in "referring consumers of legal services to lawyers or facilitating the creation of lawyer-client relationships between consumers of legal services and lawyers willing to provide assistance." Rule 7.4(a). When participating in an intermediary organization, a lawyer must make reasonable efforts to ensure that the intermediary organization's efforts comply with the professional obligations of the lawyer, including the following:

- (1) The intermediary organization does not direct or regulate the lawyer's professional judgment in rendering legal services to the client;
- (2) The intermediary organization, including its agents and employees, does not engage in improper solicitation pursuant to Rule 7.3;
- (3) The intermediary organization makes the criteria for inclusion available to prospective clients, including any payment made

or arranged by the lawyer(s) participating in the service and any fee charged to the client for use of the service, at the outset of the client's interaction with the intermediary organization;

(4) The function of the referral arrangement between lawyer and intermediary organization is fully disclosed to the client at the outset of the client's interaction with the lawyer;

(5) The intermediary organization does not require the lawyer to pay more than a reasonable sum representing a proportional share of the organization's administrative and advertising costs, including sums paid in accordance with Rule 5.4(a)(6); and

(6) The intermediary organization is not owned or directed by the lawyer, a law firm with which the lawyer is associated, or a lawyer with whom the lawyer is associated in a firm.

Rule 7.4(b). If a lawyer discovers that an intermediary organization in which the lawyer participates is noncompliant with Rule 7.4(b), the lawyer must either seek to correct the non-compliance or withdraw from participating in the intermediary organization. Rule 7.4(c).

In this scenario, Company is acting as an "intermediary organization" in that its marketing efforts are "referring consumers of legal services to [Lawyer] or facilitating the creation of lawyer-client relationships between consumers of legal services and lawyer[.]" Rule 7.4(a). Accordingly, Lawyer is tasked with ensuring that Company complies with Rule 7.4(b); if Lawyer discovers that Company is not in compliance with the Rules, Lawyer must seek to correct Company's efforts or withdraw from participating in Company's marketing efforts pursuant to Rule 7.4(c).

Proposed 2023 Formal Ethics Opinion 4 Use of a Lawyer's Trade Name for Keyword Advertisements in an Internet Search Engine October 26, 2023

Proposed opinion rules that the intentional selection of another lawyer's unique firm trade name in a keyword advertisement campaign is prohibited, but that prohibition does not apply when the trade name is also a common search term.

Inquiry #1:

Lawyer A is a family lawyer in Durham. Lawyer A is setting up a keyword advertising campaign through an internet search engine.

The campaign will allow Lawyer A to select specific words or phrases that will trigger Lawyer A's advertisements for Lawyer A's law firm website when a consumer uses the search engine to identify potential services.

Lawyer A is aware of the Ethics Committee's prior opinion in 2010 FEO 14, where the committee concluded that it is a violation of the Rules of Professional Conduct for a lawyer to select another lawyer's name as a keyword for use in an Internet search engine company's search-based advertising program.

Lawyer B also has a law firm in Durham and offers competing services to Lawyer A. Lawyer B's law firm practices under the unique trade name of "Strike Three Divorce Lawyers." In light of 2010 FEO 14, Lawyer A will not select Lawyer B's name as a keyword to trigger Lawyer A's advertisements through the search engine. However, Lawyer A wants to select Lawyer B's unique law firm trade name as a keyword to trigger Lawyer A's advertisements.

Do the Rules of Professional Conduct permit Lawyer A to select Lawyer B's unique law firm trade name as a keyword for Lawyer A's keyword search engine advertising campaign?

Opinion #1:

No. As previously stated by the Ethics Committee,

It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. Rule 8.4(c). Dishonest conduct includes conduct that shows a lack of fairness or straightforwardness. *See In the Matter of Shorter*, 570 A.2d 760, 767-68 (D.C. App. 1990). The intentional purchase of the recognition associated with one lawyer's name to direct consumers to a competing lawyer's website is neither fair nor straightforward.

2010 FEO 14. Here, Lawyer A is intentionally purchasing the recognition associated with Lawyer B's unique law firm trade name to direct—if not divert—consumers to Lawyer A's website. Doing so creates confusion for consumers who are specifically looking for Lawyer B's website based upon a search of Lawyer B's specific and unique law firm trade name to the detriment of the consumer. As such, the conduct is "neither fair nor straightforward" and is, therefore, dishonest in violation of Rule 8.4(c).

Inquiry #2:

Same facts as Inquiry #1, except Lawyer

B's law firm trade name is "Durham Family Lawyers." Lawyer A wants to select the generic and geographically based phrase "Durham family lawyers" as a keyword phrase for the keyword advertising campaign because Lawyer A expects the phrase would be a common search term employed by consumers looking for family law services in Durham. Lawyer A is aware that Lawyer B's law firm trade name is the same as the intended keyword phrase for the advertising campaign.

Do the Rules of Professional Conduct permit Lawyer A to select a generic and geographically based phrase that also serves as a common search term if Lawyer B has already registered the term as a trade name?

Opinion #2:

Yes. The Ethics Committee's conclusion in 2010 FEO 14 focused on "[t]he intentional purchase of the recognition associated with one lawyer's name" for the purpose of directing or diverting consumers to the purchasing lawyer's website. 2010 FEO 14. Inherent in this conclusion is the recognition that a lawyer's name is unique and serves as a critical identifier for consumers searching for that particular lawyer's services. As such, the intentional attempt to trade on such a specific, unique aspect of a lawyer's identity and services was "neither fair nor straightforward," and could reasonably lead to confusion by consumers as to where they could learn about, locate, or contact the specific person they sought. *See id.*

In this scenario, Lawyer B has selected a generic and geographically based trade name that also serves as a reasonably common search term for consumers seeking legal services. The trade name is not unique in the lexicon of consumers to specifically and exclusively identify Lawyer B; as such, it is not dishonest for Lawyer A to purchase the generic and geographically based trade name that serves as both a common consumer search term and that happens to be a competing lawyer's trade name. To hold otherwise would be to hinder the ability of all consumers seeking legal services to discover all available options through the search of a common search term. Additionally, prohibiting Lawyer A from selecting a generic and geographically based trade name that also serves as a reasonably common search term for consumers would result in a "trade name land rush" of sorts, whereby lawyers would attempt to register the most common, gener-

ic search terms as trade names for the purpose of freezing out competitors from using common search terms in keyword advertising campaigns. Such protection for common search term trade names would benefit one lawyer or law firm to the significant disadvantage of the public employing common terms in their search for legal services. Accordingly, Lawyer A is not prohibited from selecting a generic and geographical phrase that also serves as a reasonably common search term for consumers in a keyword advertising campaign despite Lawyer B's prior registration of the term as a law firm trade name. ■

Disciplinary Department (cont.)

truth about the relationship, and making false statements to the Grievance Committee. Clark was convicted of communicating threats and obstruction of justice in connection with this misconduct. Clark unsuccessfully petitioned for reinstatement in 2019. After a two-day hearing on his second petition for reinstatement, the DHC again recommended that Clark should not be reinstated. At its October meeting, the State Bar Council denied Clark's petition for reinstatement.

Notices of Intent to Seek Reinstatement

In the Matter of Douglas T. Simons

Notice is hereby given that Douglas T. Simons of Charlotte, NC, intends to file a petition for reinstatement before the Disciplinary Hearing Commission of the North Carolina State Bar. Simons was disbarred in 2005 pursuant to an Order of Disbarment dated April 15, 2005, upon an affidavit of tender of surrender of license by Simons admitting to misappropriation of at least \$300,000 in client funds from his trust account, using the misappropriated funds for his own personal use over a period of three years, and presenting false documentation to investigators for the State Bar.

Individuals who wish to note their concurrence with or opposition to these petitions should file written notice with the secretary of the State Bar, PO Box 25908, Raleigh, NC, before February 1, 2024 ■

Amendments Approved by the Supreme Court

On October 18, 2023, the North Carolina Supreme Court approved the following rule amendments. (For the complete text of the amendments, see the Spring and Summer 2023 editions of the *Journal* or visit the State Bar website: ncbar.gov.)

Amendments to the Discipline and Disability Rules

27 N.C.A.C. 1B, Section .0100, Discipline and Disability of Attorneys

The proposed amendment is a technical correction that clarifies that the procedure for refusing a letter of warning is distinct from the requirements for service of process for a letter of warning.

Amendments to the CLE Rules and Regulations

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program

The amendments extend the existing

exemption from CLE for members of the judiciary and their law clerks, and add an exemption from CLE for lawyers who are full-time employees in the General Assembly. They also add an annual renewal fee for on-demand programs; create a “registered sponsor” status that can be granted by the CLE Board to sponsors that meet certain requirements; and limit the organizations that may present PNA programs to registered sponsors and judicial district bars approved by the board to offer such programs.

Amendments to the Rules Governing the Specialization Program

27 N.C.A.C. 1D, Section .1700, The Plan of Legal Specialization; Section .3400, Certification Standards for the Child Welfare Specialty

The amendments clarify a specialist’s duty to report professional misconduct to the board, and make technical corrections to rules relating to the new specialty in child

Highlights

On October 18, 2023, the Supreme Court approved additional amendments to CLE rules that change fundamental aspects of the way mandatory CLE is enforced. The changes to the CLE rules will be implemented beginning March 1, 2024.

welfare law.

Transmitted on Behalf of the Board of Law Examiners

NC BLE Rule .0501, Requirements for Military Spouse Comity Applicants

The rule amendment proposed by the North Carolina Board of Law Examiners eliminates the application fee for military spouse comity applicants.

Amendments Pending Supreme Court Approval

At its meetings on January 20, 2023, July 21, 2023, and October 27, 2023, the North Carolina State Bar Council voted to adopt the following rule amendments for transmission to the North Carolina Supreme Court for its approval. (For the complete text of the rule amendments, see the Winter 2022, Spring 2023, and Fall 2023 editions of the *Journal* or visit the State Bar website.)

Proposed Amendments to the Duties of the Secretary

27 N.C.A.C. 1A, Section .0400, Election, Succession, and Duties of Officers

The proposed amendments permit the secretary of the State Bar to delegate ministerial tasks, such as the certification of copies of

court records, to other State Bar employees.

Proposed Amendments to the Discipline and Disability Rules

27 N.C.A.C. 1B, Section .0100, Discipline and Disability Rules

Proposed amendments to Discipline and Disability Rules .0105, .0106, and .0113 provide the procedural framework for grievance reviews for discipline issued to a respondent by the Grievance Committee. Statutory amendments enacted in 2022 required the establishment of the review procedure.

Proposed Amendments to the Rules Governing the Continuing Legal Education Program

27 N.C.A.C. 1D, Section .1500, Rules Governing the Administration of the Continuing Legal Education Program

The proposed revisions amend the definition of an ethics program and add a new “Registered Sponsor” definition.

Proposed Amendments to the Rules Governing the Specialization Program

27 N.C.A.C. 1D, Section .3500, Certification Standards for the Employment Law Specialty

The proposed amendments create a specialty in employment law. The proposed rules, which are all new, establish the standards for the new specialty.

Proposed Amendments to the Rules of Professional Conduct

27 N.C.A.C. 2, Section .0100, Client-Lawyer Relationship

The proposed amendments allow a lawyer to provide modest gifts to the client for basic living expenses if the lawyer is representing an indigent client *pro bono*, a court-appointed client, an indigent client *pro bono* through a

non-profit legal services or public interest organization, or an indigent client *pro bono* through a law school clinic or *pro bono* program, subject to certain conditions. The proposed rule amendments were submitted to the Supreme Court on September 18, 2023; however, the Court took no action on the submission and requested further information on the proposed amendments.

Comments

The State Bar welcomes your comments regarding proposed amendments to the rules. Please send your written comments by December 30 to Alice Neece Mine, The North Carolina State Bar, PO Box 25908, Raleigh, NC 27611.

Proposed Amendments

At its meeting on October 27, 2023, the council voted to publish for comment the following proposed rule amendments:

Proposed Amendments to the Rules Governing the Authorized Practice Committee

27 N.C.A.C. 1D, Section .0200, Procedures for the Authorized Practice Committee

The proposed amendments clarify the rules and ensure that the rules reflect the current procedures of the Authorized Practice Committee.

Rule .0201, General Provisions

(a) The Authorized Practice Committee is a standing committee of the council. The committee is comprised of councilors and advisory members appointed by the president. All members may vote on all matters coming before the committee unless prohibited by other rules of the State Bar.

(b) The purpose of the ~~committee on the unauthorized practice of law~~ Authorized Practice Committee is to protect the public from being unlawfully advised and represented in legal matters by unqualified persons. the unauthorized or unlawful practice of law by investigating information received about the possible unauthorized practice of law, by seeking compliance with the law, and by seeking enforcement of the law when necessary.

(c) The Authorized Practice Committee may issue advisory opinions concerning questions of significant interest to the public, the bar, and the courts on what constitutes the unauthorized practice of law.

(d) The Authorized Practice Committee

oversees the counsel's administration of the rules for registration of prepaid legal services plans and for online document providers, and directs the counsel to take such action as is necessary to enforce those rules.

Rule .0202, Procedure

The Authorized Practice Committee operates under the procedures set forth in these rules.

(a) The procedure to prevent and restrain the unauthorized practice of law shall be in accordance with the provisions hereinafter set forth.

(b) District bars shall not conduct separate proceedings into unauthorized practice of law matters but shall assist and cooperate with the North Carolina State Bar in reporting and investigating matters of alleged unauthorized practice of law.

Rule .0203, Definitions

Subject to additional definitions contained in other provisions of this subchapter, the following words and phrases, when used in this subchapter, have the meanings set forth in this Rule, unless the context clearly indicates otherwise.

(1) Appellate division - the appellate division of the General Court of Justice.

(21) Chairperson of the Authorized Practice Committee Chair - the councilor appointed by the president to serve as chairperson chair of the Authorized Practice Committee of the North Carolina State Bar.

(32) Complainant or the complaining witness - any person who has complained of to the North Carolina State Bar alleging that the conduct of any person, firm firm, or corporation as relates to alleged constitutes the

The Process

Proposed amendments to the Rules of the North Carolina State Bar are published for comment in the Journal. They are considered for adoption by the council at the succeeding quarterly meeting. If adopted, they are submitted to the North Carolina Supreme Court for approval. Unless otherwise noted, proposed additions to rules are printed in bold and underlined; deletions are interlined.

unauthorized practice of law. law in North Carolina.

(43) Complaint - a formal pleading filed in the name of information submitted to the North Carolina State Bar in the superior court against a person, firm or corporation after a finding of probable cause. alleging the unauthorized practice of law.

(54) Council - the Council of the North Carolina State Bar.

(65) Councilor - a member of the Council of the North Carolina State Bar.

(76) Counsel - the counsel of the North Carolina State Bar appointed by the council, or any attorney appointed by the counsel to provide legal services to the North Carolina State Bar.

(87) Court or courts of this state - a court authorized and established by the Constitution or laws of the state State of North Carolina.

(9) Defendant - any person, firm or corporation against whom a complaint is filed after a finding of probable cause.

(108) Investigation - the gathering of information with respect to alleged unauthorized practice of law. a complaint.

(112) Investigator - any person designated

by the committee or the counsel to assist in the investigation of alleged unauthorized practice of law; a complaint.

(4210) Letter of notice - a communication sent by the committee to an accused individual or corporation a respondent setting forth the substance a summary of alleged conduct involving that is alleged to constitute the unauthorized practice of law; law seeking a response to the allegations.

(4311) Office of the counsel - the office and staff maintained by the counsel of the North Carolina State Bar.

(4412) Office of the secretary - the office and staff maintained by the secretary of the North Carolina State Bar.

(15) Party - after a complaint has been filed, the North Carolina State Bar as plaintiff and the accused individual or corporation as defendant.

(16) Plaintiff - after a complaint has been filed, the North Carolina State Bar.

(17) Preliminary Hearing - hearing by the Authorized Practice Committee to determine whether probable cause exists.

(4813) Probable Cause - a finding by the Authorized Practice Committee that there is reasonable cause to believe that a person or corporation respondent has engaged in the unauthorized practice of law law justifying legal action against such person or corporation.

(14) Respondent - any person, firm, or corporation alleged to have engaged in the unauthorized practice of law.

(4915) Secretary - the secretary of the North Carolina State Bar.

(20) Supreme Court - the Supreme Court of North Carolina.

(16) Vice-chair - the councilor appointed by the president to serve as the vice-chair of the Authorized Practice Committee of the North Carolina State Bar.

Rule .0204, State Bar Council - Powers and Duties

The Council of the North Carolina State Bar shall have the power and duty: to supervise the conduct of the Authorized Practice Committee in accordance with the provisions of this subchapter.

(1) to supervise the administration of the Authorized Practice Committee in accordance with the provisions of this Subchapter;

(2) to appoint a counsel. The counsel shall serve at the pleasure of the council. The counsel shall be a member of the North Carolina

State Bar but shall not be permitted to engage in the private practice of law.

Rule .0205, Chair of the Authorized Practice Committee - Powers and Duties

(a) The chairperson of the Authorized Practice Committee chair shall have the power and duty:

(1) to supervise the activities of the counsel; related to the conduct of the committee;

(2) to recommend to the Authorized Practice Committee that an investigation be initiated; authorize the counsel to initiate investigations upon receipt of a complaint; information indicating the possible unauthorized practice of law in North Carolina;

(3) to recommend to the Authorized Practice Committee that a complaint be dismissed;

(3) to authorize the counsel to forego an investigation under such circumstances as the chair deems appropriate;

(4) to recommend, or authorize the counsel to recommend, an appropriate disposition of a complaint;

(45) to direct letter letters of notice to an accused person or corporation respondents or direct to authorize the counsel to issue letters of notice in such cases or under such circumstances as the chairperson chair deems appropriate;

(56) to notify notify, the accused and or authorize the counsel to notify, any complainant that complainant, and any respondent who was notified of any investigation, of the committee's disposition of a complaint complaint; has been dismissed;

(6) to call meetings of the Authorized Practice Committee for the purpose of holding preliminary hearings;

(7) to issue subpoenas in the name of the North Carolina State Bar or to direct the secretary to issue such subpoenas;

(8) to administer oaths or affirmations to witnesses;

(9) to file and verify complaints and petitions in the name of court pleadings filed by the North Carolina State Bar; Bar seeking enforcement of the prohibitions on the unauthorized practice of law.

(b) The president, vice chairperson or senior council member of the Authorized Practice Committee vice-chair shall perform the functions of the chairperson chair of the

committee in any matter when the chairperson chair or vice chairperson is absent or disqualified. If both the chair and the vice-chair are absent or disqualified, a councilor designated by the president shall serve as acting chair.

Rule .0206, Authorized Practice Committee - Powers and Duties

The Authorized Practice Committee shall have the power and duty duty:

(1) to direct the counsel to investigate any alleged unauthorized practice of law in this State by any person, firm, or corporation corporation; in this State;

(2) to hold preliminary hearings, find probable cause, and recommend to the Executive Committee that a complaint for injunction be filed in the name of the State Bar against respondent; the counsel file a lawsuit against a respondent seeking to enjoin the unauthorized practice of law;

(3) to dismiss allegations of the unauthorized practice of law upon a finding of no probable cause; a complaint when there is insufficient evidence to show a violation of the law prohibiting the unauthorized practice of law;

(4) to issue a letter letter of caution; caution which may include a demand to cease and desist, to a respondent respondents in a case cases in which where the Committee committee concludes either that:

(a) there is probable cause established to believe respondent has engaged in the unauthorized practice of law in North Carolina, but

(i) respondent has agreed to refrain from engaging in the conduct in the future; future or the committee believes respondent will stop engaging in the conduct as a result of receiving the letter of caution;

(ii) respondent is unlikely to engage in the conduct again; or

(iii) either neither referral to a district attorney or nor complaint for injunction proceedings are is not warranted under the circumstances; or

(b) there is no the evidence is insufficient to establish probable cause established to believe that respondent has engaged in the unauthorized practice of law in North Carolina, but the committee finds it appropriate to caution the respondent because the conduct could potentially lead to a violation of the law;

(i) the conduct of the respondent may be improper and may become the basis for injunctive relief if continued or repeated; or

(ii) the Committee otherwise finds it appropriate to caution the respondent.

(5) to direct the counsel to stop an investigation and take no action;

(6) to refer a matter to another regulatory or licensing authority; to a law enforcement agency, including the a district attorney attorney, for criminal prosecution prosecution; and or to other committees the Grievance Committee of the North Carolina State Bar; and

(7) to issue proposed advisory opinions in accordance with procedures adopted for adoption by the council concerning as to whether the actual or contemplated conduct identified activities of nonlawyers significant public interest would constitute the unauthorized practice of law in North Carolina.

Rule .0207, Counsel - Powers and Duties

The counsel shall have the power and duty:

(1) to initiate an investigation concerning the alleged unauthorized practice of law; law upon receipt of a complaint or upon receiving information from any other source indicating the possible unauthorized practice of law;

(2) to direct a letter of notice to a respondent respondent; when authorized by the chairperson of the Authorized Practice Committee;

(3) to make a recommendation to the committee on the disposition of a complaint;

~~(3) to investigate all matters involving alleged unauthorized practice of law whether initiated by the filing of a complaint or otherwise;~~

~~(4) to recommend to the chairperson of the Authorized Practice Committee that a matter be dismissed because the complaint is frivolous or falls outside the council's jurisdiction; that a letter of notice be issued; or that the matter be considered by the Authorized Practice Committee to determine whether probable cause exists;~~

~~(5) to prosecute before the courts all actions to enjoin the unauthorized practice of law proceedings as may be authorized by the Executive Committee or the council; before the Authorized Practice Committee and the courts;~~

~~(6) to represent the State Bar in any trial or~~

~~other proceedings concerned with the alleged unauthorized practice of law;~~

~~(7) to employ assistant counsel, investigators, and other administrative personnel in such numbers as the council may from time to time authorize;~~

~~(8) to maintain permanent records of all matters processed by the counsel on behalf of the committee and of the disposition of such matters; thereof, pursuant to the records retention policies of the North Carolina State Bar; and~~

~~(9) to perform such other duties as the council may from time to time direct, incident to the operation of the committee as the president, the chair, the committee, or the council may direct.~~

Rule .0208, Suing for Injunctive Relief

(a) ~~Upon receiving a recommendation from~~ If the Authorized Practice Committee recommends that a complaint seeking the North Carolina State Bar seek injunctive relief be filed, to prevent the unauthorized practice of law, the chair will report the recommendation to the Executive Committee ~~shall review the matter at the same quarterly meeting and determine whether the recommended action is necessary to protect the public interest and ought to be prosecuted.~~

(b) If the Executive Committee decides to follow adopt the recommendation of the Authorized Practice Committee, ~~Committee's recommendation;~~ it shall direct the counsel to prepare and file the necessary pleadings as soon as practical for signature by the chairperson and filing with in the appropriate tribunal.

(c) If the Executive Committee decides not to follow adopt the recommendation of the Authorized Practice Committee, ~~Committee's recommendation;~~ the matter shall go before the council at the same quarterly meeting will decide to determine whether the recommended action is necessary to protect the public interest and ought to be prosecuted. to authorize prosecution of the matter.

(d) If the council decides not to follow adopt the recommendation of the Authorized Practice Committee, ~~Committee's recommendation;~~ the matter file shall be referred back to the Authorized Practice Committee for alternative disposition.

(e) If probable cause exists to believe that a

respondent is engaged in the unauthorized practice of law and the harmful nature of the conduct is such that immediate action is needed to protect the public interest before the next quarterly meeting of the Authorized Practice Committee, the ~~chairperson, chair,~~ with the approval of the president, may direct the counsel to file and verify a complaint or petition in the name of the North Carolina State Bar. Bar in with the appropriate tribunal seeking such temporary, preliminary, and permanent relief as is warranted.

Proposed Amendments to the Procedures for Fee Dispute Resolution

27 N.C.A.C. 1D, Section .0700, Procedures for Fee Dispute Resolution

The proposed amendments will permit multiple methods for service of process of a letter of notice on a fee dispute respondent.

Rule .0708, Settlement Conference Procedure

(a) ...

(b) The State Bar will ~~send~~ serve a letter of notice to upon the respondent lawyer, lawyer by certified mail notifying the respondent that the petition was filed and notifying the respondent of the obligation to provide a written response to the letter of notice, signed by the respondent, within 15 days of service of the letter of notice upon the respondent, and enclosing copies of the petition and of any relevant materials provided by the petitioner.

(1) The letter of notice shall be served by one of the following methods:

(A) mailing a copy thereof by registered or certified mail, return receipt requested, to the last known address of the member contained in the records of the North Carolina State Bar or such later address as may be known to the person attempting service;

(B) mailing a copy thereof by designated delivery service (such as Federal Express or UPS), return receipt requested, to the last known address of the member contained in the records of the North Carolina State Bar or such later address as may be known to the person attempting service;

(C) personal service by the State Bar counsel or deputy counsel or by a State Bar investigator;

(D) personal service by any person

CONTINUED ON PAGE 45

Resolution of Appreciation for **Marcia H. Armstrong**

WHEREAS, Marcia H. Armstrong was elected by her fellow lawyers from Judicial District 11B (now 13) in 2011 to serve as their representative in this body; and she was, thereafter, re-elected councilor for two successive three-year terms; and

WHEREAS, in October 2020, Ms. Armstrong was elected vice-president; and in October 2021, she was elected president-elect; and, on October 21, 2022, she was sworn in as president of the North Carolina State Bar; and

WHEREAS, during her tenure with the North Carolina State Bar, Ms. Armstrong served on the following committees and boards: Ad Hoc Trust Accounting Committee; Appointments Advisory Committee, including as vice chair and chair; Authorized Practice Committee; Communications Committee; Distinguished Service Award Committee; Ethics Committee; Executive Committee, including as vice chair and chair; Finance and Audit Committee, including as vice chair and chair; Grievance Committee, including as vice chair; Issues Committee, including as vice chair and chair; Legislative Committee, including as chair; Proactive Management Based Regulation Committee; Publications Editorial Board; Special Committee to Study Amendments to the ABA Model Rules on Advertising; Opioid Summit Special Committee; and the Board of Continuing Legal Education; and

WHEREAS, Ms. Armstrong contributed wise counsel and the unique perspective of a family law specialist to all committee appointments, and she played an essential role as chair of the Legislative Committee where she spearheaded the effort to improve communications and relationships with the members of the General Assembly; and

WHEREAS, President Armstrong kicked off her presidential year in a grand style that was true to her commitment to enjoying life while getting the work done; not afraid to break with tradition, at her swearing-in banquet, President Armstrong asked a legal humorist to deliver the keynote address and arranged for a rousing performance of traditional and patriotic songs by the splendid 82nd Airborne Chorus, making all present proud to be Americans; and

WHEREAS, President Armstrong perceived the need to improve communications and engagement with judicial district bar presidents; therefore, she held a District Bar Presidents' Lunch on May 19, 2023, at which over sixty-four district bar presidents and representatives gathered in the State Bar building to share their ideas on the issues the State Bar should study and on how to encourage lawyers at the local level to get involved in their district bars and in the work of the State Bar; and

WHEREAS, President Armstrong's commitment to the professional responsibility to improve access to justice was demonstrated in her work to bring awareness to the problems caused by "legal deserts" in North Carolina; in concert with James "Jimbo" Perry, the Co-Director of the Chief Justice's Commission on Professionalism, on August 31, 2023, she convened the Legal Deserts Summit, a day-long program that brought together over seventy stakeholders to share information, to brainstorm ways to ameliorate the problems of legal deserts, and to help flip the conversation to the benefits of practice in small communities in North Carolina that are really "legal oases"; and

WHEREAS, throughout her service as a councilor and as an officer, President Armstrong was committed to highlighting, representing, and celebrating the unique experiences of lawyers serving eastern North Carolina's rural communities where she often practices; and

WHEREAS, two significant initiatives of the State Bar Council that will make compliance with State Bar regulations more equitable and manageable for our members came to fruition under the leadership of President Armstrong; to wit: the method for identifying lawyers for random trust account audits was examined and found to be disproportionately selecting lawyers in rural judicial districts; to rectify this problem, a policy that will ensure that every active member of the State Bar has an equal probability of being selected for audit in any given year was approved by the Council; the other initiative, the overhaul of the rules governing the continuing legal education program was also completed; starting in 2024, compliance with and enforcement of CLE requirements will be simpler and less costly

for lawyers and the State Bar alike; and

WHEREAS, President Armstrong made an extraordinary effort to be an ambassador for the State Bar and thereby opening channels of communication with all legal constituencies, traveling across the state to speak to conferences for district and superior court judges, to clerks of court, and to law students, and presenting the State Bar's Distinguished Service Award to six members of the bar from communities throughout the state; and

WHEREAS, as the 2011 recipient of the NC Board of Legal Specialization's Sara H. Davis Excellence Award, President Armstrong is proud to be the first family law specialist to serve as president of the State Bar; and

WHEREAS, President Armstrong's genius for taking bold action to better the lives of councilors and staff was perhaps best displayed by her decision to move the start time for committee and council meetings from 8 a.m. to the more civilized hour of 9 a.m.; and

WHEREAS, President Armstrong is affectionately known to her friends on the Council and on the State Bar staff as "Marci," a person of extraordinary warmth, kindness, and generosity who freely shares smiles, warm embraces, and splashes of her favorite red wine; and

WHEREAS, as she hangs up her presidential britches, President Marci's grateful wing men and women, raise their glasses for a splash (or two) to salute the author of Chapter 88 in the State Bar story, and to the energy, insight, talent, and just plain fun she has brought to her service as the 88th president of the State Bar.

NOW, THEREFORE, BE IT RESOLVED that the Council of the North Carolina State Bar does hereby, and with deep appreciation, express to Marci Armstrong its debt for her personal service to the State Bar, to the people of North Carolina, and to the legal profession, and for her dedication to the principles of leadership, integrity, professionalism, and equality.

BE IT FURTHER RESOLVED that a copy of this resolution be made a part of the minutes of the Annual Meeting of the North Carolina State Bar and that a copy be delivered to Marcia H. Armstrong. ■

State Bar Swears In New Officers



Brown



Smith



Frye

Brown Installed as President

Charlotte Attorney A. Todd Brown was sworn in as president of the North Carolina State Bar by Chief Justice Paul Newby at the State Bar's Annual Dinner on Thursday, October 26, 2023.

Brown earned his bachelor's degree from the University of South Carolina, and his JD from the University of South Carolina School of Law.

Brown has been a member of the North Carolina State Bar Council since 2013, during which time he has served as chair of the Administrative Committee, and has been vice-chair and chair of the Grievance Committee.

A partner of Hunton Andrews Kurth LLP, Brown is the managing partner of the firm's Charlotte office, is co-head of the firm's commercial litigation practice group,

co-chairs its Diversity and Inclusion Committee and its Talent Development Committee, is a member of its Associates Committee and Screening Committee, and is a former member of its Executive Com-

mittee.

Brown is a past-president of the North Carolina Association of Defense Attorneys. He has also served as president of the Mecklenburg County Bar, was a member of its Board of Directors, and was co-chair of its Committee on Diversity.

Smith Elected President-Elect

Eden attorney Matthew W. Smith was sworn in as president-elect of the North Carolina State Bar by Chief Justice Paul Newby at the State Bar's Annual Dinner on Thursday, October 26, 2023.

Smith earned his bachelor's degree from Campbell University, and his law degree from Campbell University's Norman Adrian Wiggins School of Law.

Smith has been a member of the North Carolina State Bar Council since 2014,

during which time he served as vice-chair and chair of the Grievance Committee, and vice-chair and chair of the Authorized Practice Committee.

An associate and partner with Maddrey Etringer Smith Hollowell & Toney, LLP, in Eden since 1998, Smith focuses his practice on real estate, estates, guardianships, as well as other areas of law typically covered by a small-town practice.

Smith is a member of the Board of Directors for the Boys' & Girls' Club of Eden. He has also served as a member and chair of the Eden Planning and Zoning Board from 2009-2022.

For 23 years, Smith has been married to his wife, Michelle. They have two sons: Harrison, 19, and Hunter, 16. He enjoys the mountains and all things Chicago Cubs.

Frye Elected Vice-President

Raleigh attorney and Hickory native Katherine Frye was sworn in as vice-president of the North Carolina State Bar by Chief Justice Paul Newby at the State Bar's Annual Dinner on Thursday, October 26, 2023.

Frye founded Frye Law Offices in Raleigh in 2003, where she is a family law specialist at her solo practice.

Since 2016, Frye has represented Wake County at the NC State Bar as a councilor where she has served as a vice-chair of the Grievance Committee, chair of the Communications Committee, and currently serves as the chair of the Ethics Committee.

Frye graduated from the Norman Adrian Wiggins School of Law. She is a fellow in the American Academy of Matrimonial Lawyers, a NC Board Certified Specialist in family law, and a NC Dispute Resolution Commission certified mediator. She has held numerous other leadership positions for the Wake County Bar and the NC Bar Association. ■

2024 Meeting Schedule

Below are the 2024 dates of the quarterly State Bar Council meetings.

January 16-19	NC State Bar Headquarters, Raleigh
April 16-19	NC State Bar Headquarters, Raleigh
July 16-19	The Beaufort Hotel, Beaufort
October 29-November 1	NC State Bar Headquarters, Raleigh
<i>(Election of officers on October 30 2024, at 6:30 pm)</i>	

Fifty-Year Lawyers Honored

Members of the North Carolina State Bar who are celebrating the 50th anniversary of their admission to practice were honored during the State Bar's Annual Meeting at the 50-Year Lawyers Luncheon. One of the honorees, R. Lee Farmer, addressed the attendees, and each honoree was presented a certificate by the president of the State Bar, Marcia H. Armstrong, in recognition of his or her service. After the ceremonies were concluded, the honorees in attendance sat for the photographs below and on the following page. ■



First row (left to right) Cecil L. Whitley, James Norfleet Pruden III, Nancy Russell Shaw, Raboteau Wilder Jr., Franklin R. Plummer, Jan H. Samet, John L. Pinnix, John P. Paisley Jr., Richmond H. Page, Hurley E. Thompson Jr., William Y. Webb *Second row* George B. Hyler Jr., Brian H. Tenney, Francis P. Rasberry Jr., Melvin F. Wright Jr., D. Keith Teague, C. Everett Thompson II, John P. Van Zandt III, James W. Swindell, David B. Smith, Elton G. Tucker, William E. Wood

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Publisher (Name and complete mailing address):
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211 E. Edenton St.
Raleigh, NC 27601
Editor (Name and complete mailing address):
Jennifer Duncan
211 E. Edenton St.
Raleigh, NC 27601
Managing Editor (Name and complete mailing address):
Jennifer Duncan
211 E. Edenton St.
Raleigh, NC 27601

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Full Name: Jennifer Duncan
Complete Mailing Address: 211 E. Edenton St., Raleigh, NC 27601

10. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box ☒ None

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☒ The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes
☐ Has Not Changed During Preceding 12 Months
☐ Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

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(2) Sales in-County Paid Subscriptions Stated on PS Form 3541 (Include paid distribution above normal rate, advertiser's proof copies, and exchange copies)	0	0
(3) Paid Distribution Outside the Mails (Including Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Paid Distribution Outside USPS® (e.g., First-Class Mail®))	0	0
(4) Paid Distribution by Other Classes of Mail Through the USPS (e.g., First-Class Mail®)	0	0
b. Total Paid Distribution (Sum of 14b(1), (2), (3), and (4))	26700	26014
c. Free or Nominal Rate Distribution (Sum of 14c(1), (2), (3), and (4))		
(1) Free or Nominal Rate Outside-County Copies Included on PS Form 3541	0	0
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(4) Free or Nominal Rate Distribution Outside the Mail (Carriers or other means)	250	250
d. Total Free or Nominal Rate Distribution (Sum of 14d(1), (2), (3), and (4))	250	250
e. Total Distribution (Sum of 14e(1) and 14e(2))	27250	26264
f. Copies Not Distributed (See instructions to Publishers #4, page 43)	400	340
g. Total (Sum of 14e and 14f)	27650	27014
h. Total (Sum of 14e and 14f)	27650	27014
i. Percent Paid (14e divided by 14g times 100)	96.16	96.06

*If you are claiming electronic copies, go to line 16 on page 3. If you are not claiming electronic copies, skip to line 17 on page 3.

PS Form 3526, July 2014 (Page 2 of 4)

UNITED STATES POSTAL SERVICE® (All Periodicals Publications Except Requester Publications)

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c. Total Paid Distribution (Line 15b) + Paid Electronic Copies (Line 15a)	27200	26014
d. Percent Paid (Both Print & Electronic Copies) (15b divided by 15c times 100)		

☒ I certify that 95% of all my distributed copies (electronic and print) are paid above a nominal price.

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☒ Publication in a general publication, publication of this statement is required. Will be printed in the 12/1/23 issue of this publication. ☐ Publication not required.

19. Signature and Title of Editor, Publisher, Business Manager, or Owner
Jennifer Duncan
Date: 09/12/2023

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).

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First row (left to right) Vincent P. Collura, Jesse B. Caldwell III, R.B. Deal, Robert A. Beason, Wade E. Byrd, C. Bruce Armstrong, Robert H. Corbett, John M. Bowen, Jimmy D. Cooley, Kenneth Neal Davis, John Wesley Lunsford, Michael A. Schlosser *Second row* James E. Cross Jr., Daniel F. Finch, J. Steven Brackett, Dwight W. Allen, Daniel T. Blue Jr., Richard D. Conner, S.L. Atkins, William T. Biggers, L. Allen Hahn, R. Lee Farmer, James W. Thompson III, Robert D. Rouse III *Third row* DeLyle M. Evans, Alfred G. Adams, Ellis M. Bragg Jr., Louis F. Foy Jr., John H. Banks, Robert C. Cogswell Jr., James Carl Eubanks III, Theodore O. Fillette III, Joseph B. Cheshire V



First row (left to right) Joseph A. Connolly, Robert D. Kornegay Jr., Dan M. Hartzog, George J. Oliver, Danny R. Murray, Ralph Bruce Laney, John Robert Morgan, Robert N. Hunter Jr., James B. Hoof, Robert F. Johnson, Walter L. Hinson Jr., W. Phillip Moseley *Second row* Keith D. Hackney, William H. Heafner, H. Gray Hutchison Jr., Harold P. McCoy Jr., Neil W. Koonce, Robert S. Gilliam, H. Gerald Beaver, Dennis R. Joyce, Charles R. Krueger, Timothy M. Hawkins, John W. Mason, R. A. Haynes *Third row* Randy S. Gregory, Edward B. Higgins Jr., Fredrick Gray Johnson, R. Frank Gray, Paul Joseph Michaels, Cecil L. Whitley, Richard F. Landis II, T. Paul Hendrick, Alan S. Hicks, Cecil W. Harrison Jr., Linda M. McGee

2023 Third Quarter Random Audits

Judicial Districts 24H and 40 were randomly selected for audit for the third quarter of 2023. Lawyers randomly selected for audit are drawn from a list generated from the State Bar's database based upon judicial district membership designations in the database.

Judicial District 24H is composed of High Point. Eight lawyers/firms were audited in this district.

Judicial District 40 is composed of Buncombe County. Thirty-eight lawyers/firms were audited in this district.

Following are the results of the 46 audits:

1. 41% failed to identify the client and source of funds, when the source was not the client, on the original deposit slip;
2. 39% failed to maintain images of cleared checks or maintain them in the required format;
3. 26% failed to identify the client on confirmations of funds received/dispensed by wire/electronic/online transfers;
4. 22% failed to complete quarterly transaction reviews;
5. 20% failed to sign, date, and/or maintain reconciliation reports;

6. 17% failed to review bank statements and cancelled checks each month;

7. 15% failed to indicate on the face of each check the client from whose balance the funds were withdrawn;

8. 13% failed to:

- complete quarterly reconciliations;
- escheat unidentified/abandoned funds as required by GS 116B-53;

9. 11% failed to take the required one-hour trust account management CLE course;

10. Up to 10% failed to:

- complete monthly bank statement reconciliations;
- prevent over-disbursing funds from the trust account resulting in negative client balances;
- prevent bank service fees being paid with entrusted funds;
- properly record the bank date of deposit on the client's ledger;
- promptly remove earned fees or cost reimbursements;
- provide written accountings to clients at the end of representation or at least annu-

ally if funds were held more than 12 months;

- use business-size checks containing the Auxiliary On-U's field;

11. Areas of consistent rule compliance:

- properly maintained a ledger for each person or entity from whom or for whom trust money was received;
- maintained a ledger of lawyer's funds used to offset bank service fees;
- removed signature authority from employee(s) responsible for performing monthly or quarterly reconciliations.
- properly deposited funds received with a mix of trust and non-trust funds into the trust account;
- promptly remitted to clients funds in possession of the lawyer to which clients were entitled;
- provided a copy of the Bank Directive regarding checks presented against insufficient funds;
- signed trust account checks (no signature stamp or electronic signature used);
- properly maintained records that are retained only in electronic format. ■

Lawyer Assistance Program (cont.)

my daily life, characteristics I developed remain. My use of academics transformed into a passion for learning. Once I got out of my house, I found a community in which to serve. Most importantly, my experience has given me faith that I will be alright. When I close my eyes and remember the dark nights when my dad was drunk, I see the silver lining that was invisible to me before. It would be dishonest if I said I was grateful for my dad's disease, but without alcoholism, I would not be the person I

am today.

Obviously, my perception during my active alcoholism of the impact of my disease upon my family was very different from my daughter's perspective. It is a family disease. No matter how much I told myself my drinking was only affecting me, it simply wasn't true. It was insane to think that I was in any way protecting my daughters from the hell that is alcoholism. As a direct result of LAP involvement and the time away I so desperately needed, I learned how to build a sufficient foundation to begin to live without alcohol. Because I had lied so often about never having another drink, after rehab I knew that the only way to make amends to my family was to make "living

amends" by showing them I could not and would not drink again. My recovery has brought many gifts, including gratitude for my family's love and forgiveness, as well as the freedom from hiding and lying. ■

The North Carolina Lawyer Assistance Program is a confidential program of assistance for all North Carolina lawyers, judges, and law students, which helps address problems of stress, depression, alcoholism, addiction, or other problems that may impair a lawyer's ability to practice. For more information, go to nclap.org or call: Cathy Killian (Charlotte/areas west) at 704-910-2310, or Nicole Ellington (Raleigh/down east) at 919-719-9267.

John B. McMillan Distinguished Service Award

Henry P. Van Hoy II

Henry P. Van Hoy II (Hank) was presented with the John B. McMillan Distinguished Service Award on August 25, 2023. Matthew W. Smith, vice-president of the State Bar, presented the award. John S. Willardson, former State Bar councilor, and Melvin F. Wright, director of the Chief Justice's Professionalism Commission, also participated in the presentation.

Mr. Van Hoy graduated from the University of North Carolina at Chapel Hill in 1971 with a degree in political science. Upon graduating, he continued his education in Chapel Hill, earning his juris doctor from UNC School of Law in 1974.

He began the practice of law with George Martin, and he continues to practice law at Martin, Van Hoy & Raisbeck, LLP in Mocksville. During his career, he served as the Mocksville town attorney for over three decades. In addition to practicing law, Mr. Van Hoy served on the NCBA's Board of Governors from 1997 to 2000. He also served as president of the NCBA from 2001 to 2002, and gave nearly 40 years of service to the Board of Law Examiners Bar Candidate Committee.

Mr. Van Hoy is a revered member and former chair of the NCBA Judicial Independence and Integrity Committee, which strives to increase awareness of the importance of an independent judiciary and the critical role of the judicial branch. Mr. Van Hoy devoted an astounding amount of time and energy to the committee, particularly in the areas of education and outreach. As chair of the education subcommittee, he led the efforts of that body to develop balanced and informative educational materials for distribution to members of the bar and the general public. He prepared and provided manuscripts to other committee members for speaking engagements, while making numerous appearances himself.

As a reflection of his commitment to the legal profession, Mr. Van Hoy was selected to the North Carolina General Practice Hall of Fame in 2009. In 2013 he was awarded the Order of the Long Leaf Pine, and in 2019 he received the NCBA Citizen Lawyer Award.

In addition to his contributions to the legal community, Mr. Van Hoy is active in the Davie County community. For 38 years he served on the Davie County Board of

Elections and was the longest continuously serving Elections Board member in the state of North Carolina. He was a longtime member of the Mocksville Rotary Club and served it as president. Mr. Van Hoy also served as a founding Board of Directors member of the Davie Family YMCA, is a past chair of the Uwharrie Chapter of the Boy Scouts of America, past board member of the Davie Community Foundation, and past chair of the Davie High School Advisory Board.

Mr. Van Hoy's record of service to clients, colleagues, his community, and his state make him a most deserving recipient of the John B. McMillan Distinguished Service Award.

Nominations Sought

Members of the State Bar are encouraged to nominate colleagues who have demonstrated outstanding service to the profession for the John B. McMillan Distinguished Service Award. Information and the nomination form are available online: ncbar.gov/bar-programs/distinguished-service-award. Please direct questions to Suzanne Lever at slever@ncbar.gov. ■

Proposed Amendments (cont.)

authorized by Rule 4 of the North Carolina Rules of Civil Procedure to serve process; or
(E) email sent to the email address of the member contained in the records of the North Carolina State Bar if the member sends an email from that same email address to the State Bar agreeing to accept service of the letter of notice by email. Service of the letter of notice will be deemed complete on the date that

the letter of notice is sent by email.

A member who cannot, with reasonable diligence, be served by one of the methods identified in subparagraphs (A)–(E) above shall be deemed served upon publication of the notice in the State Bar Journal.

(2) The letter of notice shall enclose copies of the petition and of any relevant materials provided by the petitioner.

(3) The letter of notice shall notify the respondent (i) that the petition was filed and (ii) of the respondent's obligation to provide to the State Bar a written

response to the letter of notice, signed by the respondent, within 15 days of service of the letter of notice.

...

(e) The facilitator ~~will~~ may conduct a telephone settlement conference. ...

(f) The facilitator will explain the following to the parties:

(1) ...;

...

(8) that any agreement reached will be reached by mutual ~~consent~~ consent of the parties.

(g) ... ■

Client Security Fund Reimburses Victims

At its October 26, 2023, meeting, the North Carolina State Bar Client Security Fund Board of Trustees approved payments of \$306,031.80 to 48 applicants who suffered financial losses due to the misconduct of North Carolina lawyers.

The payments authorized were:

1. An award of \$6,690 to a former client of Charles M. Kunz of Durham. The board determined that the client retained Kunz to assist with his immigration status. The client made payments towards the \$15,000 quoted fee. Kunz failed to provide any meaningful services for the fee paid prior to his disbarment and passing. Kunz was disbarred on April 14, 2023, and then died on April 21, 2023. The board previously reimbursed ten other Kunz clients a total of \$21,100.

2. An award of \$375 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to assist her in obtaining Power of Attorney for an inmate. The client paid \$375 towards the \$750 quoted fee. When the inmate was transferred to a different facility, Kunz claimed he made arrangements to visit him there. Kunz failed to schedule a visit or meet with the inmate and provided no meaningful services for the fee paid prior to his disbarment and passing.

3. An award of \$4,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to assist him with his immigration case. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

4. An award of \$2,500 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to pursue collection of the balance of a settlement agreement. Kunz lied to the client about obtaining a confession of judgment and never filed anything on the client's behalf, so he provided no meaningful legal services for the fee paid prior to his disbarment and passing.

5. An award of \$2,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to handle her uncontested divorce. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

6. An award of \$2,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to handle a divorce and custody matter. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

7. An award of \$750 to a former client of Charles M. Kunz. The board determined that the client retained Kunz for representation in a landlord/tenant matter. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

8. An award of \$500 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to handle a contract dispute. Kunz lied about preparing and filing the complaint and failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

9. An award of \$1,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to file an application for Canadian Criminal Rehabilitation with the Canadian government. Kunz never filed the application or made any submission on the client's behalf. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

10. An award of \$2,500 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to file a civil suit. Kunz lied to the client about settling the matter and receiving settlement funds. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

11. An award of \$3,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to

review her immigration status case. Kunz accepted the case and the client's fee knowing that he was under investigation by the State Bar and not in a position to provide the legal services. Kunz failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

12. An award of \$3,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to handle her family's immigration case seeking asylum and work permits. Kunz lied about filing the necessary paperwork and failed to provide any meaningful legal services for the fee paid prior to his disbarment and passing.

13. An award of \$7,475 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to file an appeal in her civil case. The client made payments towards the fee which included preparation and filing of the Record of Appeal, briefing, and oral arguments if necessary. Kunz failed to perfect the appeal and provided no meaningful legal services for the fee paid prior to his disbarment and passing.

14. An award of \$4,000 to a former client of Charles M. Kunz. The board determined that the client retained Kunz to file two separate civil actions. Kunz subsequently informed the client that he had settled the claims with the defendants assuming responsibility and the client would be receiving settlements. It was discovered that Kunz never contacted the defendants, and he provided no meaningful legal services for the fee paid prior to his disbarment and passing.

15. An award of \$2,800 to former clients of Charles M. Kunz. The board determined that the clients retained Kunz for representation in their immigration proceedings. Kunz failed to appear at the hearings and provided no meaningful legal services for the fee paid prior to his disbarment and passing.

16. An award of \$10,000 to a former client of J. Michael Ricks of Goldsboro.

The board determined that Ricks was retained to handle a client's criminal matter. The client paid Ricks for representation through trial. Ricks abandoned the client prior to trial and failed to represent him throughout trial for the fee paid.

17. An award of \$4,000 to a former client of Edward D. Seltzer of Charlotte. The board determined that Seltzer was retained to handle the client's divorce. Seltzer provided no meaningful legal services for the fee paid prior to his death. Seltzer died on June 30, 2021. The board previously reimbursed five other Seltzer clients a total of \$76,150.

18. An award of \$2,500 to a former client of Edward D. Seltzer. The board determined that Seltzer was retained to prepare and file a Motion for Appropriate Relief for a client. Seltzer failed to provide any meaningful legal services for the fee paid prior to his death.

19. A total award of \$249,941.80 to 30 former clients of Daniel S. Rufty of Lexington. The Client Security Fund

accepted 30 applications for review concerning Rufty and Carolina Legal Services (CLS) [unaffiliated with any nonprofit legal services organization]. Applicants entered into contracts with CLS and attorneys Meg Sohmer Wood and Daniel Rufty (to negotiate debt settlements with various financial institutions and lenders). Until he was suspended by the Disciplinary Hearing Commission (DHC), Rufty was the NC attorney who nominally owned and operated the debt adjusting business called CLS. The DHC recognized in its Consent Order of Discipline that Rufty's debt adjusting business was illegal under North Carolina law. N.C. Gen. Stat. §14-423. The DHC found that the entire debt adjusting enterprise was *void ab initio*, from the moment the claimants signed contracts with CLS, either under the auspices of Wood or her successor, Rufty. Nonlawyers enrolled the clients to be represented by Rufty without Rufty's involvement, and provided legal advice to the clients to stop paying their creditors. Nonlawyers then negotiated debt

settlements on behalf of the clients without significant and meaningful legal services or involvement by Rufty. Rufty did not provide any legal services that were distinguishable from CLS's illegal debt adjustment activities. The fees paid to CLS by Rufty's clients were obtained dishonestly. Rufty was suspended from the practice of law for five years on April 12, 2021.

Funds Recovered

It is standard practice to send a demand letter to each current or former attorney whose misconduct results in any payment from the fund, seeking full reimbursement or a confession of judgment and agreement to a reasonable payment schedule. If the attorney fails or refuses to do either, counsel to the fund files a lawsuit seeking double damages pursuant to N.C. Gen. Stat. §84-13, unless the investigative file clearly establishes that it would be useless to do so. Through these efforts, the fund was able to recover a total of \$13,436.95 this past quarter. ■

Upcoming Appointments

Anyone interested in being appointed to serve on a State Bar board, commission, or committee should email State Bar Executive Director Alice Neece Mine at amine@ncbar.gov, or Lanice Heidbrink at lheidbrink@ncbar.gov, to express that interest, being sure to attach a current resume. Please submit before January 5, 2024. The council will make the following appointments at its January meeting:

Lawyer Assistance Program Board (three-year terms)—There are three appointments to be made. Eben T. Rawls III (councilor member) is not eligible for reappointment. Shelli Buckner (volunteer member) and Timothy Carroll (clinician member) are eligible for reappointment.

The LAP Board is a nine-member board comprised of three State Bar councilors, three LAP volunteers, and three clinicians who are experienced in working within the substance abuse and/or mental health field. The LAP Board establishes policy related to

the execution of the LAP mission and is responsible for oversight of the operation of the Lawyer Assistance Program subject to the statutes governing the practice of law, the authority of the council, and the rules of the board. The LAP Board meets during the regularly scheduled quarterly State Bar Council meetings.

North Carolina Legal Education Assistance Foundation Board (NC LEAF) (one-year term; no limit on consecutive terms)—William R. Purcell and James R. Grant are eligible for reappointment. There is no limit on the number of consecutive terms that can be served.

NC LEAF assists in the recruitment and retention of public interest attorneys by providing loan repayment assistance for law school debt. The NC LEAF board consists of 18 members appointed by their constituent groups. The NC LEAF Board establishes policy related to the execution of the NC LEAF mission and is responsible for

oversight of the operation of the program. The board meets once a year. The Executive Committee of the board meets more frequently. ■

Pathways to Well-Being (cont.)

Endnotes

1. Bloomberg Law, [bit.ly/402RT9n](https://www.bloomberglaw.com/bit.ly/402RT9n).
2. WHO, [bit.ly/3FLAy1V](https://www.who.int/bit.ly/3FLAy1V).
3. ABA Journal, [bit.ly/3FkL2Pc](https://www.abajournal.com/bit.ly/3FkL2Pc), and NORC at the University of Chicago, [bit.ly/3rVsFXC](https://www.norc.uchicago.edu/bit.ly/3rVsFXC).
4. Uchenna C. Ogbonnaya, Matthew S. Thiese, Joseph Allen, *Burnout and Engagement's Relationship to Drug Abuse in Lawyers and Law Professionals*, *Journal of Occupational and Environmental Medicine*, pubmed.ncbi.nlm.nih.gov/35732047.

Annual Reports of State Bar Boards

Board of Continuing Legal Education

Submitted by Adrienne S. Blocker, Chair

Lawyers continue to meet and exceed their mandatory continuing legal education requirements. By mid-March 2023, 28,710 annual reports had been filed electronically for the 2022 compliance year. I am pleased to report that 99% of the active members of the North Carolina State Bar complied with the mandatory CLE requirements for 2022. The annual reports show that North Carolina lawyers took a total of 398,360 hours of CLE in 2022, or 14 CLE hours on average per active member of the State Bar. This is two hours above the mandated 12 CLE hours per year.

The CLE program operates on a sound financial footing and has done so almost from its inception over 30 years ago. Funds raised from attendee and non-compliance fees not only support the administration of the CLE program, but also support three programs that are fundamental to the administration of justice and the promotion of the professional conduct of lawyers in North Carolina. The program's total 2022 contribution to the operation of the Lawyers Assistance Program (LAP) was \$397,053.69. As of September 30, 2023, the board had also collected and distributed \$327,751.58 to support the work of the Equal Access to Justice Commission and \$327,751.58 to support the work of the Chief Justice's Commission on Professionalism. In addition, the CLE program generated \$81,909.29 to cover the State Bar's costs for administering the CLE-generated funds for the LAP and the two commissions.

This year the NC Supreme Court approved sweeping changes to the CLE rules and procedures to improve the program. The new rules will take effect on March 1, 2024. A few of the major highlights include a two-year reporting period, an annual attendance fee, course application fees, and the elimination of the requirement to file an annual report.

The State Bar has worked closely with the

programmers to develop new regulatory management software, which includes a new CLE database and lawyer portal. The staff has been actively using the software. The sponsor portal will be launched later this year.

Regrettably, the term of Robert "Bert" Kemp has come to an end. He will be greatly missed. A Resolution of Appreciation in recognition of Bert's service has been submitted with this report.

The board strives to ensure that the continuing legal education requirements meaningfully advance the competency of North Carolina lawyers. We welcome any recommendations or suggestions that councilors may have in this regard. On behalf of the other members of the board, I thank you for the opportunity to contribute to the protection of the public by overseeing the mandatory continuing legal education program of the State Bar.

Board of Legal Specialization

Submitted by Jan E. Pritchett, Chair

North Carolina's Legal Specialization program exists for two reasons: First, to assist in the delivery of legal services to the public by identifying lawyers who have demonstrated special knowledge, skill, and proficiency in a specific field, so that the public can more closely match its needs with available services; and second, to improve the competency of the Bar. I am proud to report that, under the guidance of the Board of Legal Specialization, and with the tireless efforts of the specialty committees and staff, our program is stronger than ever and continually achieving the very purpose for which the State Bar Council created the program in 1985. On top of that, our program is entirely self-sufficient.

With the addition of 56 new specialists last November, there are more than 1,100 certified legal specialists in North Carolina. The State Bar's specialization program certifies lawyers in 14 specialties. This spring we received 108 applications from lawyers seek-

ing certification. Of these applicants, 98 met the substantial involvement, CLE, and peer review standards for certification and were approved to sit for their respective specialty exams. Certification exams were administered using a combination of remote proctoring through ExamSoft, the software program our board has employed in administering our exams for the past seven years, and in-person at the State Bar building. We began offering remote proctoring in 2020, and it has successfully increased access to our program across the state by eliminating the barriers of time and travel that may have previously prevented lawyers from pursuing certification.

The board remains active in evaluating its own administrative rules and its current roster of specialty certifications to identify and pursue improvements in the program for the betterment of the public and the profession. To this end, the board approved several rule amendments this year to increase the program's operational efficiency. Additionally, I am proud to report that the board approved the creation of a new specialty certification in employment law; this area of law was identified to the board as a developing and increasingly important area of law in need of a resource for the public to identify lawyers who have objectively demonstrated proficiency in the field. I am thankful for the council's support of this new initiative in publishing the proposed standards for comment, and I hope the council will continue its support this quarter and send the proposed standards to the Supreme Court for approval. The board remains grateful to the council for its support of the specialization program as we strive to improve what is already a nationally respected specialty certification program.

The Board of Legal Specialization typically holds an annual luncheon in the spring to honor both long-time and newly certified specialists. In March of this year, in lieu of the annual luncheon, the board hosted a recognition event at the State Bar building to

honor those who obtained their initial specialty certifications in 2022, as well as those who reached the important milestones of 25, 30, and 35 years of specialty certification in 2023. The event was a great success, and our hope is that, in addition to holding our annual luncheon, we can also host smaller events in the western, central, and eastern parts of the state in 2024.

I am also happy to report that the Jeri L. Whitfield Legal Specialty Certification Scholarship Fund established to provide scholarships for specialization application fees for prosecutors, public defenders, and non-profit public interest lawyers who wish to become certified specialists continued to experience success in 2023. The fund is administered by the North Carolina Legal Education Assistance Foundation (NC LEAF). We received several donations from specialists and board members during 2023, as well as a generous grant of \$500 from the North Carolina Bar Association Foundation. All contributions are tax-deductible and can be made through NC LEAF. As a result of this scholarship fund, I am pleased to report that five public interest applicants received scholarships this year, thereby offering these lawyers the opportunity to not only attain certified status, but also instill trust and confidence in the legal services received by the clients they serve.

Our exams continue to be a strong and objective measure of proficiency for the various specialties, and we are constantly working to improve both the content of the exams and the testing experience. This pursuit and its success are owed in great part to Dr. Terry Ackerman with the University of Iowa who has provided psychometric analysis for each of our specialty exams for several years. He provides valuable psychometric analysis ensuring that our exams remain valid and reliable. As noted before, we continue to utilize ExamSoft and its testing program, Exemplify, for all our testing needs. ExamSoft is a secure, cloud-based software that is used by many law schools and on most bar exams. The program's significant capabilities help streamline all aspects of the testing process, from writing and storing exam questions to grading and analyzing exams.

Also in this year's specialization news, the State Bar *Journal* featured interviews with Dan Pope, a specialist in workers' compensation from Raleigh; Ben Snyder, a specialist in

immigration law from Charlotte; Douglas Wickham and Parker Rumley, both who are business and consumer bankruptcy law specialists from Raleigh, and Marcus Crow and Matthew Crow, consumer bankruptcy law specialists from Monroe; and Orly Resnik, an estate planning and probate law specialist from Cary. Additionally, in August the director of our program, Brian Oten, was named chair of the American Bar Association's Standing Committee on Specialization, thereby adding to the impressive national profile that our program enjoys.

In July of this year, two members rotated off the Board of Legal Specialization: Laura V. Hudson and Nancy S. Ray. Both served for six years and contributed ideas, perspectives, and passion for the work of the board. Ms. Hudson is chief marketing officer at Ward and Smith PA in Raleigh. Her insights regarding specialization program recognition and marketing opportunities have been an invaluable resource, and her enthusiasm will be sorely missed. Ms. Ray is a Pitt County magistrate, hearing both civil and criminal matters and presiding over Pitt County's small claims court. She also teaches business and insurance law at East Carolina University. Her calm demeanor and thoughtful approach have been a great asset to the board, and she will be missed.

We continue to be thankful for the State Bar Council's support of our program, including its thoughtful consideration in its appointment of Misty Didieo of Huntersville as a public member of the board, and Mary Pollard of Durham as a non-specialist lawyer member of the board. We are grateful for the council's appointment of Matthew Ladenheim as vice-chair to the board, and I am humbled by your action in appointing me to serve an additional year as chair of the board. The board looks forward to continued success in certifying lawyers in their specialty practice areas, thereby contributing to the State Bar's mission of protecting the public by improving the quality of legal services available to the people of this state.

The specialists who serve on the board's various specialty committees are vital to the specialization program. The specialty committees write the standards for their specialty, vet all applications for certification and recertification, draft and grade the certification exams, and make certification recommendations to the board on applications. The pro-

gram includes more than 100 specialists who volunteer extraordinary amounts of time and talent to the specialization program. It is one of the largest volunteer efforts of the State Bar. The program would not be nearly as successful if not for their efforts.

Board of Paralegal Certification

Submitted by Bryan Scott, Chair

Our program continues to do the good work of the North Carolina State Bar by serving the public and contributing to the improvement of legal services offered in this state. North Carolina's Paralegal Certification Program exists for two reasons: First, to assist in the delivery of legal services to the public by identifying individuals who are qualified by education and training and have demonstrated knowledge, skill, and proficiency to perform substantive legal work under the direction and supervision of a licensed lawyer; and second, to improve the competency of those individuals. Eighteen years after the first application for paralegal certification was accepted by the board in 2005, there are today over 3,633 North Carolina State Bar certified paralegals. I am proud to report that, under the guidance of the Board of Paralegal Certification and with the tireless efforts of various volunteers and staff, our program is thriving and continually achieving the very purpose for which the State Bar Council created the program. Importantly, our program is entirely self-sufficient.

In 2020, and as a product of the COVID pandemic, our program successfully pivoted to administer our certification exams via remote proctoring. Our proactive measures paid off—we continued to administer our exams despite the ever-present uncertainties brought by the COVID pandemic, and we have seen an overall increase in the number of examinees over the past 18 months due to the exam being more accessible to paralegals across the state. Importantly, the software used to remote proctor the exams has produced minimal, if any, technological issues for examinees and assists us in ensuring the integrity of our exam. On April 29, 2023, we administered our paralegal certification exam to 140 applicants via remote proctoring; of those applicants, 83 achieved passing scores and were certified by the board. On October 14, 2023, we will administer our paralegal certification exam via remote proctoring to approximately 166 applicants. We had one

of our highest application years in 2022, and the total number of applicants in 2023 rivaled the large volume of applicants seen in recent years. We had hoped the switch to remote proctoring would enable more paralegals to pursue paralegal certification, particularly those who ordinarily could not afford the time or the travel expense of taking the exam at one of our traditional testing locations. I am delighted to report that our hope has become our experience, and I am proud that our program converted the difficulties of 2020 and 2021 into opportunities to evolve our program for the betterment of legal services offered by paralegals in all parts of our state.

Also, in 2023 the board will have considered over 3,600 recertification applications. To maintain certification, a certified paralegal must complete six hours of continuing paralegal education (CPE) credits annually, including one hour of ethics. I am pleased to report that certified paralegals have continued to improve their competency by taking over 22,500 hours of CPE in the last 12 months.

In 2020, the Supreme Court of North Carolina approved the rule amendment presented to the State Bar Council at the end of 2019 that allows a paralegal to qualify to take the paralegal certification exam based upon the applicant's work experience. The new rule recognizes our state's valuable and experienced paralegals who did not obtain particular degrees prior to joining the paralegal profession by allowing paralegals with five years of paralegal work experience plus ethics training to qualify for the exam. The board feels this new rule works well with our ongoing educational requirements, allowing only those paralegals who have demonstrated specific educational achievements or substantial paralegal work experience to sit for the exam, thereby ensuring the high standards communicated by our certification process. We are thankful for the State Bar Council's and Supreme Court's support of this rule amendment. I am happy to report that over the past four years, 79 paralegals qualified to sit for our certification exam by way of their work experience. In 2024, we again expect that number to grow.

Our exam continues to be a strong and objective measure of proficiency for paralegals, and we are ever striving to improve both the content of the exam and the testing experience. Most importantly, our Paralegal

Certification Committee has been working hard on reviewing and revising the certification exam in 2023. This substantial effort will produce a new exam for 2024 that is both rigorous and relevant, and that ensures paralegal certification carries the important weight of objective proficiency that was its intent when created. Additionally, our psychometrician, Dr. Terry Ackerman from the University of Iowa, has retired and a new psychometrician, Dr. Adam Meade from North Carolina State University, has been hired on a contract basis to provide psychometric services. We also continue to utilize ExamSoft and its testing program, Exemplify, for all our testing needs. ExamSoft is a secure, cloud-based software that is used by many law schools and on most bar exams. The program's significant capabilities help streamline all aspects of the testing process, from writing and storing exam questions to grading and analyzing exams. We are excited that the use of this software and its remote proctoring capabilities have proven useful in reaching more paralegals in more parts of the state, thereby increasing paralegals' access to our program and the public's access to improved legal services via certified paralegals.

We continue to be thankful for the State Bar Council's support of our program, including its thoughtful consideration in appointing new lawyer and paralegal members during the October 2023 meeting that will carry forward and build upon the tradition of excellence and integrity that embodies our program. On a personal note, as it is my last year of service on the board, including the last year as chair, I want to express my sincere gratitude for the opportunity to serve the public through this program.

The Board of Paralegal Certification looks forward to continued success certifying qualified paralegals to help with the delivery of legal services to the citizens of North Carolina. We welcome any recommendations or suggestions that councilors may have for ways in which the board might improve the paralegal certification program. On behalf of the other members of the board, thank you for the opportunity to contribute to the protection of the public by overseeing this important program of the North Carolina State Bar.

Lawyer Assistance Program

Submitted by Robynn Moraites, Director

This year marks our first, real "back to normal" year since COVID first arrived on our collective doorstep. All of our LAP-sponsored events (conferences, support groups) are again being held in-person.

In terms of program utilization, we have returned to our second straight year of utilization rates that mirror pre-COVID utilization rates. We opened 157 new files. The most common issues lawyers, judges, and law students face are depression, anxiety, and alcoholism.

One COVID-related change that appears here to stay is virtual meetings, like support groups or hybrid CLE. By offering our support groups via Zoom, lawyers based in more rural areas can participate. As a result, while we have returned to mostly in-person support groups, we will retain a few monthly or weekly virtual support groups and meetings. In addition, having a hybrid option for CLE speakers makes our lives a little bit easier. Giving as many CLE programs as we do (74 this year), the drive time alone for purely in-person programs is quite time consuming. We are finding a nice balance between in-person and hybrid presentations.

In December there was a tragic shooting incident at a law firm down east that resulted in the death of a lawyer. Nicki Ellington, our Raleigh-based counselor, was on site the next day providing psychological triage and stabilization services and referrals to both lawyers and staff. It became apparent that stakeholders across the state needed to work together to develop a coordinated first response protocol to avoid duplication of effort or working at cross purposes.

LAP spearheaded the initiative, and we held a series of meetings over the course of many months. Critical stakeholders involved in the planning process included BarCARES, Lawyers Mutual, the State Bar Ethics Office, the Attorney Client Assistance Program, and the State Bar Office of Counsel. We developed materials that will be included on LAP's website, along with the websites of several other stakeholders. In the coming year, we hope to provide training to elected district bar presidents as well as elected State Bar councilors and the BarCARES board.

Interacting with our volunteers is my favorite part of the job. It is an absolute joy and pleasure to work with them. LAP

CONTINUED ON PAGE 53

February 2024 Bar Exam Applicants

The February 2024 bar examination will be held in Raleigh on February 27 and 28, 2024. Published below are the names of the applicants whose applications were received on or before November 3, 2023. Members are requested to examine it and notify the Board in a signed letter of any information which might influence the Board in considering the general fitness of any applicant for admission. Correspondence should be directed to Lee A. Vlahos, Executive Director, Board of Law Examiners, 5510 Six Forks Rd., Suite 300, Raleigh, NC 27609.

Lalisa Abdul-Malek Durham, NC	Trenor Bender Raleigh, NC	Judith Bullock Beaufort, NC	Pamela Collins Durham, NC	KimberMarie Faircloth Pleasant Garden, NC
Suraya Akkach Raleigh, NC	Hope Ben-Israel Greensboro, NC	Kathryn Burgdorf Cary, NC	Brenna Connor Mount Pleasant, SC	Megan Fallon Greensboro, NC
Tsvetina Alexandrov Cary, NC	Rudy Benitez Cary, NC	Daja Burgee Greensboro, NC	Donj'e Cooper Greensboro, NC	Kaylee Faw Jamestown, NC
Rhabiya Alhassan Charlotte, NC	Karen Bensch Raleigh, NC	Brittany Burks Raleigh, NC	Lauren Corbett Gulfport, FL	Julianna Federich Greensboro, NC
Kelvin Allen Durham, NC	Wendell Beres Rolesville, NC	Cameron Burns Charlotte, NC	Ashyra Corpening Greensboro, NC	Adam Ferrebee Clemmons, NC
Samantha Allen Clayton, NC	Mark Berlick Tampa, FL	Alexandra Buxbaum Raleigh, NC	Daniel Crandol Tarboro, NC	Nicolette Marie Ferriolo Greensboro, NC
Dawnwin Allen Charlotte, NC	Evan Bernstein Fairview, NC	Bryan Canales Mooresville, NC	Kelley Creacy-Durham Sanford, NC	Matthew Ferris Gibsonville, NC
David Alles Fuquay Varina, NC	Kimberley Beyer Glenville, NC	Courtney Cannon Irmo, SC	Savannah Croxton-Zweigart Raleigh, NC	Valerie Fitch Boone, NC
Christian Allred High Point, NC	Anthony Bland Greensboro, NC	Jackson Carter Elkin, NC	Robert Cryan Jamestown, NC	Delilah Fladger Greensboro, NC
Craig Almond Greensboro, NC	Reginald Boney Durham, NC	Kathryn Carter Salemberg, NC	Jennifer Davis Julian, NC	Eduardo Flores Raleigh, NC
Shari Anhalt Long Beach, CA	Angela Bostick Cornelius, NC	Matthew Carter Elon, NC	Matthew Densford Charlotte, NC	Warren Flowers Clayton, NC
Ifunanya Anikamadu Durham, NC	Esther Bouquet Alexandria, VA	Pamela Case Pittsboro, NC	Lyric Derglin Rock Hill, SC	Raquel Foriest Kernersville, NC
Steven Arellano Hope Mills, NC	Nathaniel Bowers Raleigh, NC	Natasha Castellano Greensboro, NC	Bailey Dingleline Raleigh, NC	Montre Freeman Roanoke Rapids, NC
Jeschamma Augustin Hickory, NC	Todd Bowyer High Point, NC	Edward Castillo Raleigh, NC	Kailah Douglas Durham, NC	Joseph Gadberry Wilmington, DE
Robert Averett New Bern, NC	Corey Brandenburg Greensboro, NC	Oscar Castro Durham, NC	Chiodera Drayton-Smith Dacula, GA	Tamia Gaitwood Pfaltown, NC
Sarah Ayad Morrisville, NC	Sean Braswell Durham, NC	Gordon Cathcart Greensboro, NC	Izabella Drogoszewski Knightsdale, NC	Isabella Gallelli Greensboro, NC
Elisha Ayer Raleigh, NC	Donnie Brooks Myrtle Beach, SC	Philip Chalmers Durham, NC	Shane Duer Raleigh, NC	Sherry Gardner Fuquay Varina, NC
Amie Baek Cary, NC	Fletcher Brooks Greensboro, NC	Nathaniel Chapman Granite Falls, NC	Lily Edmond Youngsville, NC	Kellin Gent Greensboro, NC
Nicholas Bainbridge Apex, NC	Shelley Brown Beaufort, NC	Sidra Cheema Raleigh, NC	Meghan Edwards Kernersville, NC	Brianna George Durham, NC
Scott Barbag Las Vegas, NV	Nicholas Brown Hartwell, GA	Seoyeon Cho Winston-Salem, NC	Amanda Edwards Greensboro, NC	Mychal Gillespie Troutman, NC
Brittany Barnes Plymouth, NC	Denver Brown Greensboro, NC	Brendan Clark Pembroke, NC	Hayes Elliott Newton, NC	Hannah Goins Pembroke, NC
Paul Barringer Charlottesville, VA	Louise Brunson Raleigh, NC	Jeremiah Clarke Cary, NC	Joyce Endaya Hernando Beach, NC	Maira Gonzalez Flat Rock, NC
Chance Bartenfield Greensboro, NC	Morgan Bryant-Cook Bonaire, GA	Diarra Clemons Huntersville, NC	Skylar Etheridge Waxhaw, NC	Alexa Gorman Forest, VA
David Bartholomew Asheville, NC	Zachary Bryson Lenoir, NC	Peter Cline Raleigh, NC	Brittany Eudy Salisbury, NC	Michael Govan Suffolk, VA
Allison Bateman Durham, NC	Christopher Bueno Harrisburg, NC	Andrea Col High Point, NC	Michael Everett Fayetteville, GA	William Grammer Cedar Point, NC
Morgan Beatty Huntersville, NC	Benjamin Bullins Eden, NC	Deswin Cole Charlotte, NC	Drew Fabricius Durham, NC	Mia Graves Greensboro, NC
Jessica Bell Faison, NC	Kennedy Bullis Burlington, NC	Leea Collard Garner, NC	Andrew Fackler Landis, NC	Edward Greco Charlotte, NC

Juan Guadarrama Clayton, NC	Suffolk, VA	Michael Longo Asheville, NC	Wadesboro, NC	Wesley Pantelakos Raleigh, NC
Seth Gulledege Raleigh, NC	Yiran Jiang Charlotte, NC	Asia Lowe Charlotte, NC	Amy Merrill Murphy, NC	Rebecca Parsons Lowgap, NC
Kira Hague Garner, NC	Brittney Jones Salemberg, NC	Kiah Lynn Durham, NC	Lauren Merritt White Lake, NC	Annalise Pattavina Greensboro, NC
Michael Hall Durham, NC	Casey Jones New Bern, NC	Paloma Magallanes Raleigh, NC	David Miller Charlotte, NC	John Pearson Mills River, NC
Mary Hardee Greenville, NC	Mekhai Jones-Foye Jamestown, NC	Avery Maggiolo Raleigh, NC	James Millner Greensboro, NC	Siobhan Petracca Greensboro, NC
Jeffrey Harnden Greensboro, NC	Christen Justice Jaeger, WV	Ryan Mahabir Oak Ridge, NC	Jack Milne Danville, CA	Jason Phillips Warsaw, NC
Alyssa Harris Stokesdale, NC	Chelsea Kabakaba Eugene, OR	Tess Mahosky Burlington, NC	Artur Minasyan Charlotte, NC	Sarah Pierre Saint Martinville, LA
Turner Harrison Raleigh, NC	Campbell Kargo Summerfield, NC	Ava Majewski Raleigh, NC	Adriana Miranda Cooper City, FL	Olivia Pike Sanford, NC
Brittany Harry Durham, NC	Kyler Kee Bessemer City, NC	Marina Malak Wake Forest, NC	Jacob Moir Morganton, NC	Stephanie Pilutti Winston-Salem, NC
Taline Hart Mooresville, NC	Brigitte Kelly Holly Springs, NC	Zachary Malnik Gainesville, FL	Amber Monroe Fayetteville, NC	Ashley Pointe Washington, NC
Anna Hartis Charlotte, NC	Rachel Kemp Cameron, NC	Matthew Marino Greensboro, NC	Stephanie Montoya Claremont, NC	James Porter Morrisville, NC
Logan Hartz Kokomo, IN	Charles King Winterville, NC	Kaci Marks Jacksonville, NC	Heather Moore Kinston, NC	Shircola Powell Wendell, NC
Thomas Harvey Elon, NC	Erica King Greensboro, NC	Cheryl Marshall Lexington, NC	Joshua Mooring Morganton, NC	Alyssa Presson Charlotte, NC
William Haynes Greensboro, NC	Whitney Kirby Darlington, SC	Emily Martin Cockeysville, MD	Ke'Aria Morgan Charlotte, NC	Taylor Price Raleigh, NC
Maia Heath Goldboro, NC	Kerolos Kirolos Hickory, NC	Arianna Martinez Charlotte, NC	Karly Morgan Winston-Salem, NC	Kaethin Prizer Pittsboro, NC
Madeline Helms Winston-Salem, NC	Julie Kirstein Fairview, NC	Jennifer Martinez Chapel Hill, NC	Jacob Morton China Grove, NC	Seth Proctor San Diego, CA
Matthew Hendley Durham, NC	Griffin Kish Chapel Hill, NC	Martin Matuszewski Knightdale, NC	Makail Mosley Durham, NC	Elizabeth Purdy Danbury, NC
Samantha Hepler Thomasville, NC	Kevin Koach Franklin, NC	Jonathan Maulsby Jacksonville, NC	Hannah Mullen-Fox Smithfield, VA	Danielle Quadrani Riartes Arden, NC
Emily Hickman Chapel Hill, NC	Tristan Kosich Bailey, NC	Samantha Maziejka Hillsborough, NC	Brady Mullis Waxhaw, NC	Victoria Rasberry Winterville, NC
Collin Higgins Dorchester, MA	Zachary Kovach Greensboro, NC	Ian McAdoo Durham, NC	Jerry Murphy Tyler, TX	Katherine Rayner Advance, NC
Gregg Hill Charlotte, NC	Elizabeth Kwon Carthage, NC	James McAllister-Ashley Raleigh, NC	Jillian Murphy Norfolk, VA	Brittany Reaves Fayetteville, NC
Larry Holder Raleigh, NC	Sydney Ladans Charlotte, NC	Crystal McBride Charlotte, NC	Daphne Myers Greensboro, NC	Huimeng Ren Chapel Hill, NC
Taylor Holloman Gibsonville, NC	Sarah Lamberson Palm Beach Gardens, FL	Kailah McClenney-Johnson Loganville, GA	Joseph Nader Warren, OH	Devon Rhodes Chapel Hill, NC
Alexis Holloway Greensboro, NC	Alexander Lambert Hope Mills, NC	Baillie McCormack Angier, NC	Ashley Nagy Chapel Hill, NC	Eric Rhoton Asheville, NC
Ryan Hopfe Winston-Salem, NC	Patrick Lambert Cherokee, NC	Bailey McDaniel Havelock, NC	Benjamin Nazelrod Raleigh, NC	Angelica Richardson Durham, NC
Jessica Houser West Hartford, CT	Grayson LaMontagne Raleigh, NC	Kathleen McDonald Raleigh, NC	Laurin Neal Lexington, NC	Lisa Roach Monroe, NC
Grey Howard Charlotte, NC	Hayden Lanier Graham, NC	Kennon McFalls Gastonia, NC	Demetris Neyland Raleigh, NC	Abigail Robertson Oviedo, FL
Virginia Howell Durham, NC	Aaron Laster Millers Creek, NC	Katie McFatter Greensboro, NC	Linh Nguyen Pleasant Garden, NC	Zachary Robeson Greensboro, NC
Emily Humes Greensboro, NC	Dylan Laws Lenoir, NC	Tristan McGuire Winston-Salem, NC	Jackson Odenwelder Greensboro, NC	Dena Rogers Fuquay Varina, NC
Nigia Hunt Durham, NC	Sang Eun Lee La Mirada, CA	Damien McKinney Arden, NC	Tyler O'Hara Durham, NC	Hannah Roney Raleigh, NC
Joshua Hunter Greensboro, NC	Shelby Lennon High Point, NC	Adia McLaughlin Pinehurst, NC	Priscah Oluoch Greensboro, NC	Aaron Rosby Greensboro, NC
Charisma Hunter Norton, VA	Erika Lessane Concord, NC	Alexis Medley Asheville, NC	Jack O'Neal Lexington, NC	Emmett Rouse Luray, SC
Taylor Imperiale Charlotte, NC	Joseph Lewis Greensboro, NC	Suzanne Meehle Kannapolis, NC	Edward Ortega Colon Charlotte, NC	Stephanie Rowland Tucson, AZ
Meagan Jackson Pinehurst, NC	Quianna Lewis Haw River, NC	Kristin Melo Raleigh, NC	Joaquin Ortiz Chesapeake, VA	Alexis Ruslander Greensboro, NC
John Jackson Metairie, LA	William Littlejohn Mount Pleasant, SC	Anai Mendez Saint Pauls, NC	Kathryn Overby Greensboro, NC	Olivia Rust Greensboro, NC
Arielle James Durham, NC	Brittany Locke Atlanta, GA	Kathryn Mendez Greensboro, NC	Karl Palenkas Rocky Mount, NC	Julia Salamey Charlotte, NC
Justin Jarrett	Alexander Long Greensboro, NC	Isabel Mendoza-Garcia	Amy Palmer Greensboro, NC	Sydney Santos

Lexington, NC	Stuart Small	Raleigh, NC	Penny Walker	Arlington, VA
Megan Saturley	Asheville, NC	Alyssa Sweeney	Holly Springs, NC	Haley Williams
Asheville, NC	Victoria Small	Raleigh, NC	Brandon Walker	Kernersville, NC
Lisa Scheibly	Knoxville, TN	Susan Synakowski	Cary, NC	Nicholas Williams
Tampa, FL	Alison Smith	Stanfield, NC	Anaya Wallace	Trenton, FL
Peter Schopen	Raleigh, NC	Krystal Telfair	Durham, NC	Sonja Wilson
Greensboro, NC	Yvonne Smith	Raleigh, NC	Brandon Wallace	Duncan, SC
Mircea Scurtu	Liberty, NC	Charmaine Terregino	Nashville, NC	Herman Wilson Jr
Hillsborough, NC	Andreia Smith	Chapel Hill, NC	Winslow Ward	Fayetteville, NC
Erin Seiffert	Charlotte, NC	Nicholas Towell	Raleigh, NC	Chandler Wirotek
Glen Gardner, NJ	Hunter Snowden	Greenville, NC	Monica Ward	Cornelius, NC
Melody Sheets	Charlotte, NC	Katherine Travia	Charlotte, NC	Bailey Wiseman
Winston-Salem, NC	Kasey Snyder	Kernersville, NC	Daniel Warren	Cary, NC
Elizabeth Shirazi	Stoneville, NC	Sean Travis	Elon, NC	Atlanta Woodall
Cary, NC	Grayson Stotir	Kinston, NC	Jill Warren	Greensboro, NC
Marcos Silva	Raleigh, NC	James Trotter	Durham, NC	Morgan Woodward
Mooresville, NC	Timberly Southerland	Los Angeles, CA	Aman Washington	Greensboro, NC
Jullien Silva	Willard, NC	Michael Tsambouniery	Durham, NC	Franklin Worsham
Mooresville, NC	Victoria Southerland	Cherryville, NC	Eva Waszak	Charlotte, NC
Kendra Simmons	Smithfield, NC	Jasmine Turner	Greensboro, NC	Aaron Wrisbon
Cary, NC	William Spagh	Charlotte, NC	Brianna Watkins	Raleigh, NC
Simerjit Singh	Clemmons, NC	Ashley Van Slyck	Charlotte, NC	Diana Xavier
High Point, NC	Avery Staley	Raleigh, NC	Vanessa Way	Wadesboro, NC
Kelsey Skaggs	Mooresville, NC	Samantha Van Winter	Louisburg, NC	Sonia Yancey
Holly Springs, NC	Danny Stamey	Charlotte, NC	Nick Weinrib	Lenoir, NC
Asia Skyers	Pasadena, CA	Vincent Varano	Winston-Salem, NC	Madison Yashinsky
Wake Forest, NC	Emilee Stohl	Chapel Hill, NC	Jalyn Wells	Greensboro, NC
Tyra Slade	Greensboro, NC	Matthew Wagner	Spring Lake, NC	
Durham, NC	Madeline Struttman	Las Vegas, NV	Jenna West	
Andrew Slaughter	Durham, NC	Maria Walker	Charlotte, NC	
Mebane, NC	Stewart Sturkie	Garner, NC	Carly Whisner	

Legal Deserts (cont.)

CJCP Co-Executive Director Jimbo Perry, who also practices Kinston, has traveled the state all year raising awareness of the issue and changing the conversation. In his remarks to the attendees, Perry shared that he believes living in and providing legal services in a “legal desert” may really be a legal oasis for many lawyers. He emphasized that the opportunity to practice in our small towns provides lawyers with the unique opportunity to enjoy greater flexibility and to build meaningful relationships with other members of their communities as a neighbor and as the community’s lawyer.

“Do you remember why you went to law school?” Perry asks. “Over the past eight months I have asked hundreds of law students and lawyers that question. Most of them say they want to be a lawyer to help people and make a difference in the world around them. A legal ‘oasis’ is a perfect place to help people with their cases and their lives, and to help our communities.” Perry adds, “I have also heard many students and lawyers say that the idea of work-life balance is a myth. Work-life balance is NOT a myth! We all have to decide how much of us

is for sale. Let’s consider investing our lives in an oasis where we can live out our priorities and at the end of the journey have no regrets.”

A key takeaway from the summit is the importance of service to all citizens of North Carolina: the legal profession is a service industry, and the various stakeholders showed a genuine commitment to ensuring that the legal needs of our rural communities continue to be served. To that end, the summit represents not the end, but the beginning of a larger and lengthier conversation.

The State Bar and the Chief Justice’s Commission on Professionalism intend to remain at the center of this conversation, facilitating connections and driving creative solutions for the protection and benefit of the public. If you’re interested in joining the conversation, contact Jimbo Perry or State Bar Executive Director Alice Mine. Additionally, if you are interested in watching the Legal Desert Summit, a full-length video recording is available on the State Bar’s YouTube channel (youtube.com/northcarolinastatebar). ■

Brian Oten is the ethics counsel for the

State Bar, and the director of the Legal Specialization and Paralegal Certification programs.

Savannah Perry is a deputy counsel in the North Carolina State Bar’s Office of Counsel.

State Bar Annual Reports (cont.)

volunteers embody a genuine gratitude and humility seldom seen in the legal profession. They want others to be spared the pain they have experienced, and they expend a considerable amount of energy working toward that aim, carrying a message of hope in all they do for our program and their peers. I am blessed to call so many of them friends, and I am grateful for the work they do on our behalf. When it comes to our volunteers’ contributions to our program and its daily operation, the whole is truly greater than the sum of the parts.

Visit our website (nclap.org) to view the 2022-2023 NC LAP Annual Report. ■

The North Carolina State Bar and Affiliated Entities

Selected Financial Data

The North Carolina State Bar

	2022	2021
Assets		
Cash and cash equivalents	\$10,984,339	\$7,706,332
Property and equipment, net	12,667,889	12,923,033
Other assets	504,858	807,082
	<u>\$24,157,086</u>	<u>\$21,436,447</u>
Liabilities and Fund Equity		
Current liabilities	\$5,602,852	\$3,504,546
Long-term debt	7,923,867	8,304,254
	13,526,719	11,808,800
Fund equity-retained earnings	<u>10,630,367</u>	<u>9,627,647</u>
	<u>\$24,157,086</u>	<u>\$21,436,447</u>

Revenues and Expenses

Dues	\$9,368,830	\$9,110,611
Other operating revenues	1,288,184	1,121,887
Total operating revenues	10,657,014	10,232,498
Operating expenses	(9,473,262)	(8,936,206)
Non-operating expenses	<u>(181,032)</u>	<u>(275,875)</u>
Net income (Loss)	\$1,002,720	\$1,020,417

The North Carolina State Bar Plan for Interest on Lawyers' Trust Accounts (IOLTA)

	2022	2021
Assets		
Cash and cash equivalents	\$12,313,349	\$9,792,884
Interest receivable	1,149,213	460,376
Other assets	<u>206,260</u>	<u>150,142</u>
	\$13,668,822	\$10,403,402
Liabilities and Fund Equity		
Grants approved but unpaid	\$6,101,864	\$4,214,500
Other liabilities	<u>159,289</u>	<u>98,396</u>
	6,261,153	4,312,896
Fund equity-retained earnings	<u>7,407,669</u>	<u>6,090,506</u>
	\$13,668,822	\$10,403,402

Revenues and Expenses

Interest from IOLTA participants, net	\$7,577,606	\$5,438,280
Other operating revenues	251,732	403,567
Total operating revenues	7,829,338	5,841,847
Operating expenses	(6,601,158)	(4,653,476)
Non-operating revenues	<u>88,983</u>	<u>15,272</u>
Net Income (loss)	\$1,317,163	\$1,203,643

Board of Client Security Fund

	2022	2021
Assets		
Cash and cash equivalents	\$3,300,976	\$2,915,003
Other assets	<u>8,175</u>	<u>2,540</u>
	\$3,309,151	\$2,917,543
Liabilities and Fund Equity		
Current liabilities	\$15,578	\$14,663
Fund equity-retained earnings	<u>3,293,573</u>	<u>2,902,880</u>
	\$3,309,151	\$2,917,543

Revenues and Expenses

Operating revenues	\$909,651	\$933,485
Operating expenses	(522,691)	(346,451)
Non-operating revenues	<u>3,733</u>	<u>2,108</u>
Net Income (loss)	\$390,693	\$589,142

Board of Continuing Legal Education

	2022	2021
Assets		
Cash and cash equivalents	\$226,174	\$225,000
Other assets	<u>206,998</u>	<u>201,064</u>
	\$433,172	\$426,064

Liabilities and Fund Equity

Current liabilities	37,396	35,849
Fund equity-retained earnings	<u>395,776</u>	<u>390,215</u>
	\$433,172	\$426,064

Revenues and Expenses

Operating revenues	\$908,321	\$897,579
Operating expenses	(902,760)	(852,272)

Non-operating revenues	-	-
Net Income (loss)	\$5,561	\$45,307

Board of Legal Specialization

	2022	2021
Assets		
Cash and cash equivalents	199,240	194,782
Other assets	<u>28,400</u>	<u>16,450</u>
	\$227,640	\$211,232

Liabilities and Fund Equity

Current liabilities	13,640	13,446
Fund equity-retained earnings	<u>214,000</u>	<u>197,786</u>
	\$227,640	\$211,232

Revenues and Expenses

Operating revenues-specialization fees	\$213,201	\$201,000
Operating expenses	(196,987)	(168,673)
Non-operating revenues	-	-
Net Income (loss)	\$16,214	\$32,327

Board of Paralegal Certification

	2022	2021
Assets		
Cash and cash equivalents	\$475,589	\$448,971
Other assets	<u>325</u>	<u>50</u>
	\$475,914	\$449,021

Liabilities and Fund Equity

Current liabilities - accounts payable	79,537	65,971
Fund equity-retained earnings	<u>396,377</u>	<u>383,050</u>
	\$475,914	\$449,021

Revenues and Expenses

Operating revenues-fees	\$244,819	\$260,835
Operating expenses	(231,492)	(212,403)
Non-operating revenues	-	-
Net Income (loss)	\$13,327	\$48,432

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The North Carolina State Bar
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Winter 2023

This is what recovery looks like.

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