THE NORTH CAROLINA STATE BAR

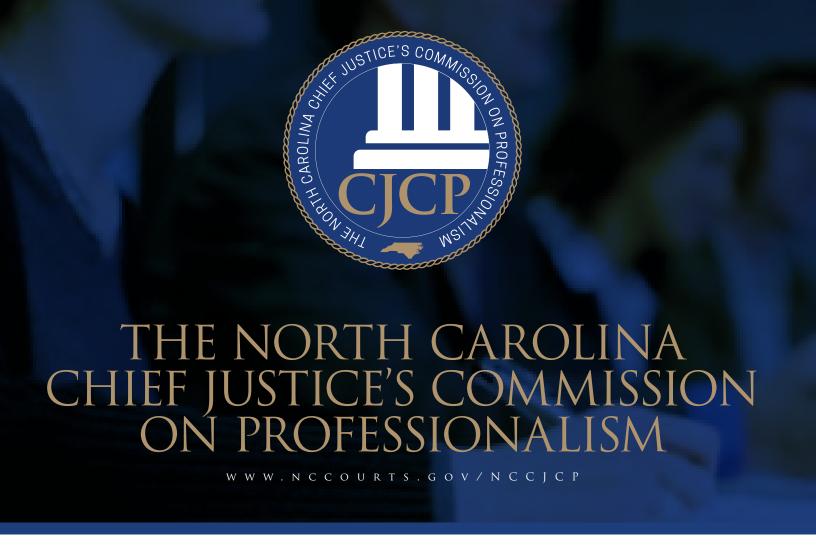
FALL 2025

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WHAT IS PROFESSIONALISM?

Professionalism is the conduct, aims, or qualities that characterize or mark a profession or a professional person; the skill, good judgment, and polite behavior that is expected from a person who is trained to do a job well.

Professionalism consists of certain attitudes, beliefs, and behaviors sometimes known collectively as "virtue" or "good character." Attitudes and behaviors have two things in common. First, both are produced by our beliefs. Second, we have the power to choose our attitudes and behaviors.

WHO WE ARE

The Chief Justice's Commission on Professionalism (CJCP) is composed of members appointed by the Chief Justice of the Supreme Court of North Carolina representing its four constituencies: appellate and trial judges, law faculty, practicing lawyers and the public. It is chaired by the Chief Justice of the

Supreme Court of North Carolina or his / her designee. The CJCP is administered by a full-time executive director.

CJCP's mission is to foster professionalism within the North Carolina legal community through creation, organization, and participation in a wide variety of activities and programs designed to fulfill its charge: to enhance professionalism among North Carolina lawyers, judges, and law students. It accomplishes this by supporting and engaging in activities throughout North Carolina and the United States that promote appropriate professional behavior required by all North Carolina lawyers in the Rules of Professional Conduct, respect for others, and a commitment to the values underpinning the rule of law and administration of justice.

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The CJCP provides programming and support for all North Carolina lawyers, judges, and law students.

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THE NORTH CAROLINA STATE BAR

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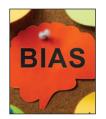
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Day 365

As I approach day 365 of my year as president of the North Carolina State Bar, I looked back on my remarks in October

2024 when I was sworn in by Chief Justice Newby to see if I had truly accomplished what I told those in attendance I planned to do. I found my notes from that night which said in part:

"Tonight, I am not promising too much, but here is what I will promise:

I will continue to give my best efforts to serve this organization and its membership. I believe that

license that hangs on our wall is an earned privilege that must be maintained by our protection of the public.

To do so, our rules and our procedures must reflect a Bar that is constituted of lawyers from the 35th floor of a Charlotte high rise to an old two-story house in Eden and everything in between.

We must recognize that we must give new lawyers a way to make a living in all areas, but especially the rural areas, by finding ways to make the practice—and I mean the day-to-day part of the practice—easier.

Sometimes serving that mission of protecting the public means providing our Bar with the tools and resources they need to be better lawyers. That is why I am excited about our recent changes to the grievance process, our deferral programs, and I am pleased with our recent efforts in the revisions to the trust account rules and audit programs.

We have made significant progress in these areas, but I would like to see these efforts continue."

Looking at the scorecard over the past year, I believe the State Bar Council has made headway in these areas. The Grievance Committee rule changes took effect the same week as the swearing in ceremony. After some challenges with technology as well

as rule implementation, those changes have proven to provide more opportunity and information for both complainants and respondents.

We continued to find ways with our partners at the court and the Bar Association to assist with the recovery efforts from Helene that impacted so many lives in the western part of the state.

The random trust account audit process

changes have also provided an equal playing field for all attorneys. A subcommittee has been created to review the entire trust account rules to simplify the reconciliation and recordkeeping process.

This past session the General Assembly reconstituted the Legislative Review Committee. The work of that committee in its previous form provided valuable guidance in the changes to the grievance process, and I am hopeful the same result will occur with this new committee.

The work of the IOLTA (Interest on Lawyers Trust Accounts) program was also addressed by the General Assembly. As of the writing of this article, IOLTA disbursements have been suspended until a path forward can be reached on how those funds are used in our legal community. I commend Mary Irvine, executive director of IOLTA, and Peter Bolac, State Bar executive director, for their continuing efforts to address the concerns raised by the General Assembly.

We are still working on solutions to our legal oases in the rural parts of the state. The State Bar alone cannot fix this problem. During the past year we have seen a growing coalition with folks like Jimbo Perry of the

Chief Justice's Commission on Professionalism, the law schools, and private initiatives like the work of Judge Tom Langan in Stokes and Surry Counties, to bring lawyers to "Mayberry."

Looking back, what I was trying to say last October, and for the past year, was I wanted the State Bar to "Do Simple Better." That quote is a steal from former Chicago Cubs Manager Joe Maddon who used it to inspire the Cubs to the 2016 World Series title. (Yes, I had to make a Cubs reference in my last State Bar article). Doing Simple Better is the State Bar doing what it is tasked to do-maintaining the privilege of self-regulation—by focusing on the fundamental tasks of protecting the public, supporting lawyers, and always "staying in our lane." In the past year, every aspect of the internal operations of the Bar have been reviewed and, in my opinion, improved.

The next group of officers—Katherine Frye as president, Kevin Willilams as president-elect, and David Allen as vice-president—will have their own challenges and their own goals. I have no doubt that they will keep us moving in the right direction.

I was recently asked at a district bar event how I wanted my term as president to be remembered. My response was three-fold: Peter Bolac, Carmen Bannon, and Brian Oten. I cannot take the lone credit for putting these fine folks in their positions with the State Bar. The prior officers and council made those wise decisions. To paraphrase Ronald Reagan: Surround yourself with great people and get out of their way. As the first president that had these three leaders of the North Carolina State Bar in place, that is how I want the past 365 days to be remembered. I look forward to the success of the State Bar on day 366 and beyond. ■

Matthew Smith is an associate and partner at Maddrey Etringer Smith Hollowell & Toney, LLP, in Eden.

Two American Institutions at a Crossroads: What Baseball's Evolution Can Teach Us About Preserving Trust, Integrity, and Relevance in the Legal Profession

BY PETER G. BOLAC

Author's note: I have a confession. I don't have a long list of article ideas stored in my OneDrive folder. We're a week removed from the summer meeting of the State Bar Council, and my article is due yesterday. My brainstorming session for this article was a lot like George Costanza trying to figure out a new career path: "I like sports. Maybe I could do something in sports." Therefore, I bring you this...

Baseball and the legal profession don't seem like natural companions—one is America's pastime; the other is a pillar of its justice system. But the more you look, the more the similarities reveal themselves. Both are rule-driven institutions with deep traditions. Both rely on trained professionals to interpret those rules fairly. And both are facing the same core challenge: how to adapt to a rapidly changing world without losing the essence of who we are.

In baseball terms, lawyers are the players. Judges are the umpires. Government leaders—those who fund the courts, write the laws, and oversee our regulatory structure—might be the owners or the commissioner. And the public? The public is the crowd. They're why we're here, and they're watching more closely than ever.

A Game Under Pressure

Baseball and the legal profession are operating under new and growing pressures. Patience is in short supply. The public wants faster outcomes, greater transparency, and on-demand access to everything. Technology has changed the way we experience both institutions. Just as instant replay and strike zone graphics have made every missed call painfully obvious, legal decisions are now scrutinized in real time, often with-

out the context needed to understand them.

And just like fans have more entertainment options than ever—streaming services, highlight clips, or novelty acts like the Savannah Bananas—clients and the public have more legal information than ever before, even if it's not always accurate. In both areas, the pressure is on to perform faster, cleaner, and under a brighter spotlight.

The Cost of Trust

Baseball has weathered labor strikes, steroid scandals, cheating schemes, and blown calls in crucial moments. Each one left a dent in public trust. The legal profession knows how that feels. When precedent is discarded without explanation, when lawyers exploit the system, or when ethical standards aren't enforced, the reputation of the entire profession suffers.

Rebuilding trust takes time. After the 1994–95 baseball strike, it wasn't a splashy ad campaign that brought fans back to the stadiums. It was Cal Ripken Jr. quietly going to work, game after game, until he broke Lou Gehrig's consecutive games record. That moment reminded people why they loved the game in the first place (author's note: I know, I was there). In law, as in baseball, trust comes from consistency, accountability, and showing up to do the work—even when it's hard.

Everyone has an Opinion

It used to be that umpires called the game, and no one questioned it, absent a few temper tantrums from managers or pithy comments from broadcasters. Games were only aired locally—on the radio or blurry televisions—making it harder for the public to

scrutinize the action. But the age of social media, high-definition footage, and instant replay has changed the way we follow the game. Sports betting adds a new wrinkle, as more outsiders feel personally invested in the outcome. An error isn't just an error anymore; it's a personal failing. We've lost our tolerance for ambiguity. That pressure has led Major League Baseball to experiment with automated balls and strikes.

The same is true in our profession. Judges, too, were nearly always regarded by the public as above reproach. Now, court decisions are available to be dissected online before the ink is dry. Judges face personal attacks and threats of violence. Every decision is viewed through the political lens of the observer. The margin for error has gotten smaller, but the consequences have grown larger. Lawyers are also encountering increased demands and unreasonable expectations from clients. The number of grievance complaints filed against lawyers at the State Bar this year is the highest in decades. We, as individuals and as a profession, are under more scrutiny and disruption than ever before, and we must either rise to meet that challenge or be comfortable with accepting obscurity.

Adapting Without Losing Our Core

Baseball has responded to the pressure. The pitch clock, larger bases, instant replay challenges, and new extra-inning rules are all attempts to speed up the game and make it more engaging. But with each change comes the risk of losing what makes baseball special in the first place. For one, baseball is supposed to be timeless. In theory, a game could last forever. Is baseball trading traditions for ticket sales? That's the dilemma we face, too.

We must adapt by embracing technology, being more responsive, and examining how we serve the public. However, we must not lose the foundational values that make this profession meaningful.

And what do we make of the Savannah Bananas? They've turned baseball into two hours of high-octane entertainment, complete with dancing umpires and no price tiers for tickets. They're fun. They're fast. And they bear only a loose resemblance to the game as it's traditionally played. The question isn't whether Bananaball is; it's whether, if we're not careful, it becomes the expectation. Flash and speed over substance and skill. We can take inspiration from innovation, but we shouldn't abandon the rulebook merely to please the crowd.

Small Markets, Big Gaps

Cost is another shared challenge. Many people can't afford a ticket to a major league game, just as many can't afford to hire a lawyer. Just like small-market baseball teams struggle to attract high-priced free agents, rural communities often can't recruit or retain lawyers, no matter how great the need. Some small-market teams have found success in another way—by investing in player development, building strong farm systems, and growing their talent. The legal profession can take a lesson from these teams. By creating pipelines, mentorships, and incentives tailored to underserved areas, we might find better, more sustainable ways to close the justice gap in legal deserts.

Learning to Call the Game

Players hit and throw the ball harder today than ever before, and the talent in the game today would make many of the greats of the past look like Double-A players. Through it all, the umpires keep calling balls and strikes. Are they perfect? No. But the data shows they're more accurate now than ever before.

Likewise, lawyers today accomplish more tasks in a week than what would have taken months just 15-20 years ago. There are more ways to resolve disputes than ever before, and new practice areas are constantly developing. Through all this change, however, our core principles remain nearly unchanged since the early days of the common law.

Judges are tasked with full dockets and an expectation of expertise that is unlike any period before. Regardless, our system, like

baseball, can't always please all participants. In an adversarial system, one side is often upset with the outcome. There are no ties.

Nobody hangs a poster of an umpire (or a judge) on their wall. Like umpires, judges (and the State Bar, for that matter) don't do this work to be popular. Our role is to uphold the integrity of the system, even when the crowd boos. We must know the strike zone. We must enforce it fairly. We must be open to innovation without losing the essence of what we're here to do.

Marking the Time

In *Field of Dreams*, Terrence Mann says, "The one constant through all the years has been baseball. It's been erased like a blackboard, rebuilt, and erased again. But baseball

has marked the time." The same could be said for the legal profession. We've evolved. We've stumbled. We've been challenged and doubted. But we endure because the rule of law still matters. The public still needs lawyers and judges grounded in ethics, service, and fairness—even if they don't always realize it.

The challenge ahead is to evolve without eroding those foundations. To know the strike zone. To keep calling it straight. And to keep showing up, day after day, until the crowd remembers why they fell in love with the game—and the rule of law—in the first place.

Peter G. Bolac is the executive director of the North Carolina State Bar.



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NIL is Allowed for All North Carolina High School Athletes. Now What?

BY MIKE INGERSOLL

n September 2023 the North Carolina General Assembly passed Senate Bill 452 (N.C. Session Laws 2023-133), which went into effect on October 3, 2023. That bill, amongst other things, gave the State Board of Education the authority to make rules for interscholastic high school sports at public schools in North

Carolina. This included rules related to the use of athletes' names, images,

and likenesses (NIL). NIL in the context of college and high school sports is, simply, endorsement deals. It is not "pay for play"—compensation for individual or team performance, e.g., win a playoff game or throw a touchdown and get a check. It is brand licensing—the brand just happens to be the athlete.

Specifically, Section XVII of Senate Bill 452 authorized the State Board to "adopt rules governing high school interscholastic athletic activities conducted by public school units...including rules *related to use of a student's name, image and likeness.*" 2023 N.C. Sess. L. 133, § 17. (a) (N.C. Gen. Stat. § 115C-407.55(1)(h)) (emphasis added). The board was required to adopt a temporary rule for the 2024-25 school year and a permanent rule for the 2025-26 school year.

However, on June 6, 2024, the State Board adopted a temporary rule, 16 NCAC 06E .0208, that outright prohibited any public high school athlete from "enter[ing] into any agreement to use the student's name, image, or likeness[.]" Notably, private school students at schools participating in the North Carolina Independent Schools Athletic Association (NCISAA) were expressly *permitted* by NCISAA bylaw changes—effective four months earlier in February 2024—to license



their NIL for commercial purposes. In other words, when it came to NIL, North Carolina's private school athletes could, but its public school athletes could not. It was the only state in the country with this internal split on NIL policy.

Even more surprising to most is who tends to benefit from NIL. While many rightly assume that football and basketball athletes would command the most NIL money (they often do), Olympic sport athletes—and in particular female athletes—tend to be highly marketable and thus have significant NIL opportunities.

On August 23, 2024, Rolanda Brandon, on behalf of her son, Faizon, quarterback at Greensboro Grimsley High School and one of the top high school football recruits in the entire country, sued the North Carolina State Board of Education and Department of Public Instruction seeking a preliminary and permanent injunction against the board's policy ATHL-008, which banned public high school athletes from entering into agreements for the use of their names, images, and likenesses. Earlier that spring, Faizon was presented with opportunities to license his NIL to a trading card company and other businesses. In exchange for that license, he would have received life-changing, generational money. Because of the State Board's temporary rule, however, Faizon, the top-rated player in the 2026 class, could not accept any of these agreements. Meanwhile, the top-rated player in the 2025 class attended a NCISAA-member private school in Charlotte, so he could.

On September 4 and 5, at the board's monthly meetings and during the pendency of the litigation, the board proposed a permanent rule for the next school year that allowed NIL activities, subject to certain guardrails common amongst most high school NIL policies nationally (including mandatory reporting and completion of a NIL education program), with some differences. Subsequently, the Brandons amended their lawsuit and alleged that this proposed permanent rule confirmed the state board believed it had carte blanche to promulgate any rule it wished.

At the hearing on the Brandons' motion for preliminary injunction, the state board argued that Senate Bill 452 did, in fact, give the board unlimited discretion to make any NIL rule it desired. The Brandons argued that Senate Bill 452's language clearly did not, nor could it as such a broad legislative delegation would violate the State Constitution's anti-delegation prohibitions,

and the statute must be read in a way to avoid that constitutional issue. Instead, the Brandons argued, Senate Bill 452 directed the state board to create rules that permitted, but regulated, the use of NIL by public high school athletes. What is more, NIL was never banned in public schools in North Carolina. Pay-for-play was, but not endorsement deals, and the North Carolina High School Athletics Association's (NCHSAA) enforcement of its pay-for-play rule as a private licensing agreement ban was in error.

Superior Court Judge Graham Shirley agreed. On October 14, 2024, Judge Shirley granted a preliminary injunction. He found that the NCHSAA's bylaws, and the corresponding state board administrative code provision, never banned NIL, only pay-forplay, and thus the board's temporary rule did not preserve the status quo, it disrupted it. Accordingly, the court enjoined the temporary rule and installed the proposed permanent rule for the next school year-which allows athletes to use their NIL for commercial purposes—in its place. The injunction thus allowed North Carolina's public high school athletes to enter into NIL licensing agreements, subject to certain guardrails. This included Faizon, who can now capitalize on the incredible opportunities available to him. The decision garnered significant media attention and brought North Carolina in line with nearly 40 other states and the District of Columbia.

I, along with Matthew Tilley and Emmett Whelan, represented the Brandons in their case against the State Board of Education. The litigation has now ended, but the Brandons' early win did prompt swift changes. At its January monthly meetings, the state board formally approved the adoption of an emergency temporary rule that substantially mirrors the scope of the injunction (and the proposed permanent rule for next school year). The new temporary rule and its permanent counterpart—

while not perfect—are more in line with the supermajority of other jurisdictions that allow NIL for their high school athletes, as well as the policy of the NCISAA at home here in North Carolina.

So, NIL is Allowed in North Carolina for High Schools, but What Happens Next?

NIL has been a mainstay at the college level since July 2021. It quickly trickled down to the high school level. Unlike at the NCAA level, which was a morass of constantly evolving regulation (and, in the past year, deregulation), high school athletics was a blank slate. The concept of NIL in high school was foreign. Sure, pay-for-play was commonly banned across most, if not all, high school sports associations, or at least it was (and is) for the NCHSAA. But endorsement deals for minors? For many it was unfathomable, and it certainly wasn't fathomed by most states' athletics regulations. So, it began. First, it was Mikey Williams, a phenom basketball recruit originally from Lake Norman Charter Academy here in North Carolina, who signed a shoe deal with Puma in 2021 while at Vertical Academy out of Charlotte, an independent basketball prep program formed by his father that allowed Williams to do NIL deals while in high

The biggest splash came amid rumors that highly-touted quarterback recruit Nico Iamaleava, currently the starting quarterback at the University of Tennessee, had signed a deal with Tennessee's NIL collective (a third-party independent entity organized for the purpose of pooling NIL deals for the benefit of athletes of a specific school or program—more on that later) while still in high school. That he signed the deal was one thing. The value reported for the deal was another: millions, with some reports as high as \$8 million. He also reportedly signed a trading card deal with Leaf Trading Cards around that same time, as did Jaden Rashada, who is cur-

rently embroiled in litigation against the University of Florida related to a failed NIL deal with its now-defunct Gator Collective during his own recruitment.

But the Brandons, Rashadas, and Iamaleavas of the world are the exception. The media's sensationalization, coupled with a general misunderstanding of the actual NIL market—or even, more commonly, what NIL is in the first place—often skews the public's perception. Most high school athletes, even in states permitting it, do not have NIL deals. Some reports are that less than one percent of high school athletes sign NIL deals in certain states. This estimate is likely low, as the majority of deals are subject to confidentiality clauses. But the number is certainly not 50%, and it may not be 25%. Of those, they do not rise to levels of cases that draw media attention. Most NIL deals for high school athletes are small if for cash—a few hundred dollars. Others are inkind, or value-based agreements—shoes, supplements, or discounts.

Even more surprising to most is who tends to benefit from NIL. While many rightly assume that football and basketball athletes would command the most NIL money (they often do), Olympic sport athletes—and in particular female athletes tend to be highly marketable and thus have significant NIL opportunities. This is true in both high school and college. The most common NIL deals, at either level, are often social media influencer agreements. Athletes push product on social media, and in exchange are paid some combination of royalties, commissions, and/or flat payments per post. The per-post amounts can climb as high as a few thousand dollars. While this degree of opportunity is typically reserved for higher profile collegiate players, and is dependent on the sponsor, it does exist for some high schoolers. But most commonly at the high school level, compensation comes in the form of product or discount codes.

The greatest uptick in NIL activity at the high school level will most likely come from a level above—that is, money trickling down from college NIL collectives in recruiting, which has already begun. For example, North Carolina is one of the top states for NFL talent. This directly corresponds with North Carolina's steady growth for about 20 years as a hotbed for high level college recruits (depending on the recruiting service, the top football players in both the 2025 and

In the three combined anti-trust lawsuits known as *House v. NCAA* pending in the Northern District of California, certain college athletes including Sedona Prince and Grant House contended that they were each denied the opportunity to earn money from endorsements and media appearance for their name, image, and likeness ("NIL") while participating in college athletics. The NCAA and the so-called Power Five conferences including the SEC, Big 10, Big 12, Pac-12, and ACC (plus Notre Dame), entered into a settlement agreement with the *House* plaintiffs that was approved on June 6, 2025, by the Honorable Claudia Wilken, the United States District Court Judge for the Northern District of California. The settlement agreement resulted in the right for collegiate institutions to pay athletes directly with certain rules and regulations. The key terms of the settlement are as follows:

- 1. The schools named in the settlement or that otherwise agreed be part of the settlement by the June 30, 2025, cutoff date are the "Participating Institutions" in the settlement.
- 2. Athletes who competed in the years 2016-2024 and did not receive NIL compensation will receive payments totaling \$2.78 billion over the next ten years with 60% percent of those funds coming from the NCAA and 40% coming from individual schools.
- 3. Colleges and universities can directly compensate athletes roughly up to a \$20.5 million cap per school in 2025-2026, increasing by four percent annually for the next ten years up to \$33 million by 2034-35. The \$20.5 million will come primarily from a 22% distribution of average revenue that comes from broadcast deals and tickets, which does not include student fees. The \$20.5 million cap will apply in the aggregate to all sports at a college or university that opt in as a Participating Institution, affording schools the flexibility to distribute funds as they see fit across all sports annually.
 - 4. The following do not count against the cap:
 - a. 3rd party NIL deals which are payments made to student-athletes by third parties such as businesses, individuals, or collectives not owned or controlled by a school.
 - b. Traditional scholarship benefits: tuition, room, board, etc.
 - c. Backpay of former athletes.
 - d. Payments made before July 1, 2025.
 - e. State appropriations.
- 5. New rules will limit the number of players allowed to be on team rosters (football will have 105 roster spots, men's basketball will have 15 spots, and women's soccer will have 28 spots). However, schools will no longer be restricted in the number of available scholarships per roster spots.
- 6. A new entity, the College Sports Commission LLC (CSC), will be responsible for enforcing the rules relating to revenue-sharing, NIL deals, and roster limits. The CSC will utilize a reporting platform called "NIL Go" where all third party NIL agreements valued at \$600 or more will be evaluated to determine if those agreements have a legitimate business purpose and reflect a "fair market value" as determined by a clearinghouse which will be administered by Deloitte evaluating a list of specific criteria and will be publicly reported. Any disputes regarding NIL will be subject to arbitration.

2026 classes are North Carolinians, for example). Because players can now sign NIL deals in high school, and because the NCAA's prohibition on NIL money being used as an inducement in recruiting is similarly enjoined, North Carolina high school athletes can now sign deals with college collectives. This also means they can begin receiving payments while in high school. And, again, while this applies mostly to foot-

ball and men's and women's basketball, these opportunities also exist in other sports, like baseball.

But it is unlikely that high school NIL activity directly mirrors college NIL. For example, despite the probable uptick in trickle-down activity from college collectives, the rise of *high school* collectives has effectively

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Debiasing the Law: How Understanding Cognitive Biases Leads to a More Just Legal System

BY DR. GLEB TSIPURSKY

awyers strive for fairness and justice in every case they handle. However, behavioral science research shows that human reasoning in legal contexts is inherently flawed and vulnerable to both explicit and implicit biases.

Cognitive biases,

known, can significantly impact legal matters such as employment law, jury selection, public procurement, criminal defense, business decision-making, bankruptcy, and police misconduct. It is there-



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fore crucial for legal professionals to understand and address these biases in order to ensure the integrity of the legal process.

The Rhyme-As-Reason Effect: A Lesson from the O.J. Simpson Case

One of the most prominent examples of cognitive bias in legal proceedings is the famous defense from the O.J. Simpson trial:

"If it doesn't fit, you must acquit." This statement, which has since become a part of legal folklore, is a prime example of the rhyme-as-reason effect, a cognitive bias where phrases that are easier to process—

known as having cognitive fluency—sound more believable to the human mind.

The O.J. Simpson trial, held in 1995, was one of the most publicized criminal trials in American history. Simpson, a former professional football player and actor, was accused of the brutal murders of his ex-wife Nicole Brown Simpson and her friend Ronald Goldman. The case was filled with dramatic moments, but perhaps none more so than when Simpson tried on a pair of gloves allegedly used in the murders. The gloves appeared to be too small for Simpson's hands, leading to the now-infamous phrase by defense attorney Johnnie Cochran: "If it doesn't fit, you must acquit."

This statement is a classic example of the rhyme-as-reason effect. This cognitive bias suggests that if a statement or argument is presented in a way that is easy to process or understand, such as rhyming, it is more likely to be perceived as true. The defense team in the Simpson trial used this cognitive bias to their advantage, crafting a simple, memorable phrase that resonated with the jury. The phrase was catchy, easy to remember, and it simplified a complex legal argument into a straightforward, easily digestible concept. This ultimately contributed to Simpson's acquittal.

As legal professionals, it is crucial to understand the role of cognitive biases in the courtroom. These biases can subtly influence the decision-making process, swaying the opinions of jurors, judges, and even attorneys themselves. The rhyme-as-reason effect is just one of many cognitive biases that can impact legal proceedings.

Anchoring: The Impact of First Impressions

Another pervasive cognitive bias in legal settings is anchoring. Anchoring is a cognitive bias that refers to the human tendency to rely heavily on the first piece of information encountered (the "anchor") when making decisions. Once an anchor is set, all subsequent judgments are made by adjusting away from that anchor. The power of the anchor often overshadows subsequent evidence, causing it to be assessed through the lens of the first piece of information.

Consider, for instance, a scenario where a juror learns about a defendant's prior criminal record before hearing about the specific details of the current case. This initial piece of information serves as an anchor, setting a tone of criminality around the defendant. As a result, the juror may be more inclined to view the defendant as guilty, regardless of the evidence presented in the current case. This is the anchoring effect in action, and it can

significantly influence the outcome of a case.

Recognizing the anchoring effect is crucial for us as legal professionals. Our understanding of this cognitive bias can help us strategize the presentation of evidence and arguments in a way that minimizes its impact. For instance, if we are aware that the prosecution is likely to introduce a defendant's criminal history early in the trial, we might preemptively address this issue in our opening statement. By doing so, we can set a different anchor, one that contextualizes the defendant's past and emphasizes the importance of judging the current case on its own merits.

Moreover, understanding the anchoring effect can also help us in our negotiations and plea bargaining. For example, the first offer made in a negotiation often serves as an anchor that influences subsequent discussions. If we are aware of this, we can use it to our advantage by making the first offer and setting an anchor that is favorable to our client.

However, merely recognizing the anchoring effect is not enough. We must also actively work to mitigate its impact. This could involve educating jurors about the existence of cognitive biases and how they can affect their decision-making process. It might also involve advocating for changes in legal procedures to minimize the potential for anchoring, such as presenting all evidence simultaneously rather than sequentially.

Furthermore, we must also be vigilant about our own susceptibility to the anchoring effect. As attorneys, we are not immune to cognitive biases. We must be mindful of the potential for anchoring in our own decision-making processes, whether it's in evaluating a case, deciding on a negotiation strategy, or making judgments about a client's credibility.

Debiasing Techniques: Tools for a Fairer Legal System

Fortunately, the field of behavioral science has provided us with a wealth of research on debiasing techniques. These are critically-important, peer-reviewed tools that can help us address biases in legal cases.

One of these techniques is the implementation of blind procedures. Blind procedures, such as double-blind lineups or anonymized document reviews, can help reduce the influence of cognitive biases. In a double-blind lineup, for instance, neither the administra-

tor nor the witness knows who the suspect is. This prevents the administrator from unconsciously influencing the witness's decision, and it prevents the witness from making assumptions based on the administrator's behavior. Similarly, anonymizing document reviews can help prevent biases based on the author's identity or other irrelevant factors. By removing identifying information or limiting the ability to draw comparisons, we can minimize the impact of biases on decision-making processes.

Another debiasing technique is the incorporation of expert testimony on cognitive biases. Expert testimony can help educate jurors and judges on the potential pitfalls of human reasoning. By making them aware of these biases, they are more likely to scrutinize their own thought processes and make more impartial judgments. For example, an expert might explain the concept of confirmation bias, where people tend to favor information that confirms their pre-existing beliefs. Understanding this bias can help jurors and judges critically evaluate their own thought processes and ensure that they are considering all evidence fairly.

A third debiasing technique is encouraging deliberative decision-making processes. Deliberative decision-making involves slow and careful consideration of evidence, which can help counteract the influence of cognitive biases. This may involve guiding jurors through a structured deliberation process or providing judges with checklists to ensure a thorough examination of the case. For instance, a checklist might remind a judge to consider alternative explanations for the evidence, to evaluate the credibility of each witness independently, or to avoid relying too heavily on first impressions. By encouraging a more thoughtful and systematic approach to decision-making, we can help reduce the influence of cognitive biases.

In addition to these techniques, there are several other strategies that can be used to mitigate the impact of cognitive biases. For example, we can use pretrial research to identify potential biases among jurors and develop strategies to address them. We can also use jury instructions to remind jurors of the importance of impartiality and the potential influence of cognitive biases. Furthermore, we can advocate for changes in legal procedures to minimize the potential for bias, such as presenting all evidence simultaneously rather than sequentially.



However, it's important to remember that debiasing techniques are not a panacea. While they can help reduce the influence of cognitive biases, they cannot eliminate them entirely. As attorneys, we must remain vigilant about the potential for bias in every aspect of the legal process, from our own decision-making to the judgments of jurors and judges. We must continually educate ourselves about the latest research on cognitive biases and debiasing techniques, and we must be willing to adapt our practices as new information becomes available.

Addressing Bias in Various Legal Contexts

The legal profession, in all its diverse fields, is a complex landscape where cognitive biases can subtly and significantly influence outcomes. Understanding and addressing these biases is not just a theoretical exercise, but a practical necessity that can impact everything from employment law to public procurement, criminal defense, business decisions, bankruptcy cases, and police misconduct investigations.

In the realm of employment law, addressing biases is critical to ensuring fair hiring practices and preventing discrimination. For instance, anonymizing resumes during the recruitment process can help employers focus on candidates' skills and experience, rather than being influenced by gender, race, or age. This technique helps to mitigate the influence of implicit biases, which can unconsciously affect our judgments and decisions. By removing identifying information, we can create a more level playing field where candidates are evaluated based on their qualifications, not their personal characteristics.

During jury selection, the *voir dire* process provides an opportunity for attorneys to identify potential jurors with strong cognitive biases that may influence their decision-making. This is a critical step in ensuring a fair trial, as these biases can sway a juror's interpretation of the evidence and their final verdict. By asking carefully crafted questions, attorneys can gauge a potential juror's susceptibility to biases, such as confirmation bias or anchoring bias, where the first

piece of information encountered heavily influences subsequent judgments.

In public procurement, addressing biases helps ensure fair competition and transparent decision-making. By implementing blind evaluation processes, public officials can objectively assess bids without being influenced by factors such as the bidder's reputation or the anchoring effect. This helps to ensure that contracts are awarded based on merit, not bias, promoting fairness and integrity in public spending.

Criminal defense attorneys must be acutely aware of cognitive biases to effectively represent their clients. They can challenge the admissibility of prejudicial evidence that may trigger anchoring or other biases, preventing the jury from forming an unfavorable view of the defendant based on irrelevant or misleading information. Additionally, they can educate jurors about cognitive biases through expert testimony, helping to create a more level playing field where the defendant is judged based on the evidence, not the sway of unconscious biases.

Cognitive biases can also impact business

decisions, such as mergers, acquisitions, and contract negotiations. Lawyers can apply debiasing techniques to help clients make more informed decisions that are less influenced by cognitive biases. For example, they can encourage clients to consider a range of scenarios, rather than anchoring on a single outcome, or they can facilitate a devil's advocate approach to challenge confirmation bias and promote more balanced decision-making. By doing so, they can help clients achieve better outcomes that are based on a thorough and objective assessment of the facts.

In bankruptcy cases, addressing cognitive biases is essential for fair asset distribution and accurate evaluation of debtor claims. By implementing blind procedures and promoting deliberative decision-making, lawyers can help ensure that the bankruptcy process remains impartial and equitable. For instance, they can use anonymized document reviews to evaluate claims, preventing biases based on the

debtor's identity or past behavior. They can also encourage trustees and judges to use checklists or structured decision-making processes to avoid being swayed by first impressions or irrelevant factors.

In cases of police misconduct, understanding and addressing cognitive biases is vital for evaluating the actions of law enforcement officers and holding them accountable. For instance, lawyers can scrutinize the reliability of eyewitness testimony, which is often influenced by cognitive biases such as the misinformation effect, where memory is distorted by misleading postevent information. By challenging the accuracy of such testimony and educating the court about the potential for bias, lawyers can help ensure that justice is served.

Conclusion: The Path to a Fairer Legal System

In conclusion, addressing cognitive biases in legal cases is an essential step towards a fairer and more just legal system. By understanding these biases and implementing debiasing techniques, lawyers can effectively navigate the complex landscape of human reasoning and ensure that justice is served. By doing so, they not only uphold the integrity of the legal profession, but also contribute to a society where fairness and justice prevail.

Dr. Gleb Tsipursky is a cutting-edge expert with a PhD and over 22 years of experience addressing bias in legal cases, and serves as CEO of the bias avoidance consultancy Disaster Avoidance Experts. He is the best-selling author of seven books, and he's been featured in over 650 articles and 550 interviews in Harvard Business Review, Forbes, Inc. Magazine, USA Today, CBS News, Fox News, Time, Business Insider, Fortune, and elsewhere. His expertise comes from over 20 years of consulting, coaching, speaking, and training for Fortune 500 companies from Aflac to Xerox, and over 15 years in academia as a behavioral scientist at UNC-Chapel Hill and Ohio State.

NIL (cont.)

been nipped in the bud. Over the past couple years, high school collectives or NIL clubs—groups formed by athletes at a particular school whereby the athletes band together, pool their deals, and share them amongst the group—began to crop up across the country. In response, state interscholastic athletics governing bodies quickly began outlawing them through their bylaws. So, whereas players may still have NIL agents, they will live on only the deals they can generate for themselves as compared to their collegiate counterparts, who can sign with their school's collective in addition to generating their own independent NIL deals.

And, for this reason, as well as the fact that most high school athletes are minors, the same employment concerns that loom over the inevitable (and near-term) college sports landscape are not as applicable at the high school level. In the very near future, college athletes will be paid directly by their schools, and given pending Fair Labor Standards Act litigation and a willing

National Labor Relations Board, college athletics is barreling headfirst (for better or worse) into an era of employment in athletics. North Carolina high school sports are probably not staring down the same fate. The NIL deals that North Carolina high school students, both public and private, are allowed to do—and most importantly, the types that are realistically available to them—are truly independent, individualized endorsement and licensing arrangements.

Finally, there is a very real educational benefit to NIL being available to North Carolina's high school athletes. No longer will they have to wait for weed-out courses in a college to have a grasp on fundamental business and contract concepts. Instead, they'll have both mandatory NIL education through the regulation currently in place and in the future, as well as real world experience with their own transactions. The hope is that this creates a generation of athletes more informed in terms of financial literacy, business acumen, and fiscal responsibility, with those skills and that knowledge developed at a much earlier point in a world where maturity is required at seemingly younger and younger ages.

With the litigation and subsequent legislation here in North Carolina, nearly all states now have policies or legislation in place that, to some degree, permit NIL licensing activities for their high school students. The market created by those changes will, like all markets, eventually stabilize. And while the next wave of changes may be unpredictable, both in their timing and scope, they will create opportunities for players and practitioners alike.

Mike is a litigator at Womble Bond Dickinson in Charlotte. A former college and professional athlete, Mike practices extensively in the area of name, image, and likeness with athletes, businesses, universities, agencies, and collectives. Recognized as a leading attorney in NIL at both the college and high school levels, Mike is sought out locally and nationally for his expertise and experience. Notably, Mike represented the number one high school football recruit in the 2026 class, and in October 2024 successfully enjoined the State Board of Education's temporary rule banning NIL for public high school athletes.

NEW BOOK RELEASE THE HUMANE DIVORCE

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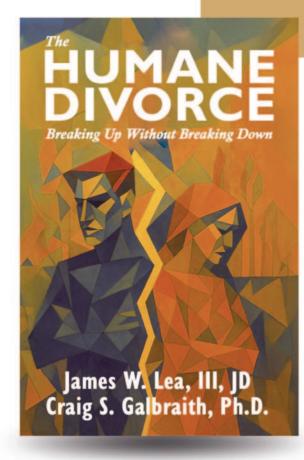
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Practice in the Margins: Stories from Lawyers Who Found Their Calling in Uncommon Legal Fields

From Trail Rides to Courtrooms: A Journey into Equine Law

By R.L. Adams

I certainly didn't go to law school planning to practice equine law. I didn't grow up around horses and only began trail riding long after I had settled in with a big firm as a product liability/medical device lawyer.

Among my trail riding friends, I was always "the lawyer just learning how to ride." These friends often asked me legal questions related to their horses or farms—questions I generally couldn't answer.

When I saw an advertisement for a CLE in Equine Law sponsored by the University of Kentucky, I used my entire annual CLE

budget to travel to the home of the thoroughbred industry and get introduced to the legal aspects of my late-in-life passion for horses.

An equine law practice wasn't compatible with the economic realities of my big firm. So, when I left to hang out my own shingle, I immediately began developing equine law as part of my new practice. I gave talks on equine law to any horse organization that would have me, wrote articles for publications targeting horse owners and professionals, and became active in equine organizations.

What Does It Take to Be an Equine Lawver?

You don't need to be a great rider or pos-

sess in-depth knowledge of every equine discipline to succeed as an equine attorney. I trail ride and have owned a farm, but I don't show or compete. I leave that to my clients, who do everything from dressage and hunter-jumper to reining and team roping.

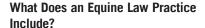
What is helpful is a working understanding of horse behavior, horse physiology, and the horse industry—especially its terminolo-

gy and common business practices. I've found that being willing to learn from clients about their specific discipline or activity is far more important than "knowing it all" in advance.

I quickly realized many people in need of an equine attorney decline to retain one, either because legal fees are beyond their means or because the amount at issue doesn't justify

the cost. No attorney can provide cost-effective representation in a breach of contract lawsuit over a \$750 horse. Providing affordable representation in smaller (financially, at least) equine matters remains one of the greatest challenges of the practice.

I also discovered that the horse industry's casual approach to business can greatly complicate even the simplest disputes. Verbal horse sales sealed with a handshake raise statute of frauds issues, among others. A partnership formed via two texts and an email—say, one party provides financing and the other provides training with a plan to sell the horse and split profits—can lead to litigation where legal fees exceed the horse's value.



For the past 25 years, a significant portion of my general civil litigation practice has included the niche of equine law. Although some colleagues like to call me a "horse lawyer," I prefer "lawyer for horse people."

My equine law practice includes nearly every legal matter that arises in the horse industry: civil litigation (personal injury, breach of contract, fraud, injury to horses, disputes over possession or care), contract drafting and review, insurance issues, risk management, and business advisory.

In short, it's the law of anything—so long as it happens in the horse world. I specifically exclude matters involving "animal rights," to avoid conflicts between the rights of equines and the rights of their owners.

Who Are Equine Law Clients?

My clients generally fall into two categories: (a) horse owners – individuals who own or lease horses for their own enjoyment; and (b) equine professionals – those who earn a living (or part of one) providing products or services to those in category (a).

As a rule, equine professionals are more sophisticated than owners when it comes to industry practices. Most equine litigation arises between someone from each category.

Horse owners vary widely. They may be skilled equestrians or parents of children taking their first lessons; they may be wealthy clients paying thousands per month for professional care of a \$75,000 hunter-jumper, or backyard horsemen caring for a

\$1,500 trail horse.

Equine professionals include boarding stable operators, trainers, breeders, horse traders, veterinarians, farriers, and nonprofits.

What Exactly Is an Equine?

Equines are hoofed mammals in the family Equidae, with manes, long legs, and long faces. Domesticated equines include horses, ponies, donkeys, and mules.

Horses are dangerous. So is riding them. After all, riding involves a predator species (humans) climbing onto a prey animal and trying to control it. What could go wrong?

In Equine Activity Liability Agreements I draft, I often include this language:

Horses are 5 to 15 times larger, 20 to 40 times more powerful, and 3 to 4 times faster than a human. A rider falling from a horse may fall 3.5 to 5.5 feet, potentially resulting in serious injury.

If frightened or provoked, a horse may act on instinct, including stopping short, changing direction or speed, shifting weight, bucking, rearing, biting, kicking, or bolting.

(Source: North American Horseman's Association)

Are There Special Laws for the Horse Industry?

Contrary to popular belief in the horse world, there is no exclusive set of laws for the industry—and certainly no exemption from the laws that apply to everyone else.

For example, a horse professional might be shocked to learn that accepting an undisclosed commission from a horse seller while representing the buyer can be grounds for a lawsuit.

In North Carolina, equines are legally livestock—not pets or companion animals. This classification matters: it helps position horse-related activity as agriculture, but also means horses can be excluded from residential neighborhoods by zoning or restrictive covenants.

There are a few equine-specific statutes. Chief among them is the North Carolina Equine Activity Liability Act, written to shield equine activity sponsors and equine professionals from liability arising out of the "inherent risks" of equine activities. The potential helpfulness of the act to the equine professionals is limited by the numerous specified exceptions (including acts and

omissions constituting willful or wanton disregard, knowingly providing faulty tack, and negligently providing a horse unsuitable for a particular rider).

What Could Possibly Go Wrong? (Trail Ride Version)

One of my most satisfying personal injury cases began when a colleague brought me in to assist with equine-related issues. Two clients had been seriously injured during a commercial guided trail ride. Riders paid a fee, were assigned horses, given minimal instruction, and led by a teenage guide along a wooded trail.

During the ride, another participant let their horse wander off-trail, disturbing a yellow jacket nest. Stung and panicked, the horse bolted, and the rest—true to herd instinct—followed. Chaos ensued. Riders, lacking experience, were thrown from their horses.

We discovered that the ride operators knew about the yellow jacket nest from previous incidents but continued using the same route. This opened the door for a strong negligence claim—possibly even punitive damages.

As usual in commercial equine activities, our clients had signed a liability waiver. But when I reviewed it, something was missing: the term "ordinary negligence." The waiver only addressed "gross negligence." Apparently, the operator had retyped the insurance company's form to include her own logo and accidentally omitted key language.

We sued for ordinary negligence—avoiding a likely summary judgment and enabling a favorable settlement shortly after the operator's deposition.

What Could Possibly Go Wrong? (Horse Deal Version)

Many cases stem from a "horse deal gone bad." A Don Henley lyric goes: "Cause a man with a briefcase can steal more money than any man with a gun." My corollary: a person with a *horse* can do just as much damage.

Overpricing horses by concealing injuries, lameness, or behav-

ioral issues can artificially inflate their value. Common tactics include medicating to mask pain, hiding vet records, tiring the horse before test rides, or spacing out shows to hide poor performance.

These tricks often come wrapped in contracts with "entire agreement," "merger," and UCC warranty disclaimers.

And then there are scammers. In one common scheme, fraudsters post stolen photos of attractive horses online, advertise them at a low price, and demand a deposit to "hold" the horse. Once they receive the money, they disappear. The horse? It never existed.

In Conclusion

What drew me to equine law was a love of horses and interest in farms—but what's kept me here is the horse people I've met and helped along the way. I love talking with clients about their horses and farms—especially if that conversation happens in their barn or on their porch.

My goal is to help clients enjoy their horses or horse-related businesses by reducing legal risks—or at least educating them so they can make informed decisions.

Pro tip: Never accept a horse as payment for your legal fees.

Alcohol Law: Say What?

By John Szymankiewicz

I was asked to write an article about what I do and answer the question: "What the heck is alcohol law, anyway?" At meetings, during introductions, I typically tell people I'm based in Raleigh and practice alcohol law. This usually gets one of two reactions—either "Wow! How cool!" or just a blank stare. Honestly, I'm fine with either.

But I get the question a lot, so for this article, I thought I'd take a different approach. I'll be interviewing... myself. Let's

see how it goes.

Bar: John, thanks for sitting down with yourself today and talking about what you do.

John: No problem—happy to do it.

Bar: May I say, you're looking pretty sharp today. Are those new glasses?

John: Thanks. Yeah, just got these. Appreciate you noticing.

Bar: So, let's get to it. The question on everyone's mind—what is alcohol law?

John: Well, for me, I work almost exclusively with breweries, wineries, distilleries, and alcohol retailers. I handle everything



Did you know North Carolina was one of only two states that refused to hold a constitutional convention to ratify the 21st Amendment repealing Prohibition? We were dragged—kicking and screaming—back into legal alcohol. And we only recently got rid of our last truly "dry" county.

from corporate formation, contracts, leases, federal and state licensing, regulatory compliance, trademark work, and—especially over the last few years—have developed a lot of expertise in mergers and acquisitions for alcohol producers and sellers.

I think of myself as a "business law generalist with an alcohol overlay." Or sometimes I tell clients I'm like an outside in-house counsel.

Bar: So, you handle things like DWIs?

John: Nope, nope, nope. That's not me. I refer those cases to criminal defense attorneys (we've got one in the office if you need someone). I generally don't go to court. I'm basically a transactional attorney. I tell clients that moving paper around and working within the system is my happy place.

Bar: ...well, in that case—

John: Actually, here's an interesting nuance. You can have your NC ABC permit revoked for conviction of an alcohol offense. But for ABC purposes, a DWI is classified as a traffic offense, not an alcohol offense. "Alcohol offense" typically refers to violations of Chapter 18B.

Bar: I didn't ask, but okay. So how did you get into this area of law?

John: Let's start at the beginning: First, the Earth cooled, then the dinosaurs came... (Sorry, kidding.)

I came to the law as career 2.0. I was an engineer and project manager in the specialty chemicals and pharmaceutical industry for about 15 years before I became a lawyer. I usually say it took me about ten years to realize I didn't like engineering.

So, when I got out of law school, I wanted to do something I genuinely enjoyed or had a passion for. I've been a homebrewer for over 25 years. Even before law school, I was a "craft beer guy"—festivals, special releases, homebrewers' conferences, you name it. That's when I fell in love with the industry.

The craft beverage industry—especially beer—is a lot of fun to work with. The vast majority (something like 90%+) are small,

independent brewers producing a fraction of what one Anheuser-Busch (AB InBev) facility produces. They're usually small operations that started with one or two passionate people risking their life savings and livelihoods to chase a dream. That makes working with them fun and rewarding.

When I graduated, it was the tail end of the 2008 recession, and there were no lawyer jobs to be had. I knew lawyers working as baristas. So, I hung out my own shingle and tried to make a go of it. I declared myself an "expert" and began the arduous process of learning federal and state alcohol law and regulation.

By the way, there are no "classes" to become an alcohol attorney. It took about four years as a general practitioner before I was able to narrow my practice to alcohol clients only.

Bar: There are so many breweries out there—it must be a lucrative practice. You must be doing well.

John: [Five-minute pause to stop laughing] Well... not really.

As I said, most of the 400+ breweries, 200+ wineries, and 100+ distilleries in NC are small producers. They're very independent and often started on shoestring budgets. Many try to do the legal work themselves or believe they can figure it out. Beyond convincing people they need legal help, most aren't exactly swimming in cash.

Alcohol production is capital-intensive, and beer margins, in particular, aren't spectacular. That's one reason why, if you want to support your local brewery, winery, or distillery, go to their location to buy their products. It makes a huge difference versus buying from a grocery store or third-party retailer.

So no—definitely not "lucrative." I won't be retiring to a Caribbean island anytime this millennium, but I love what I do.

Bar: ...moving on...

John: That's another thing I love. By focusing on alcohol producers and sellers, I get to learn not only about my clients' businesses

but about the industry itself—trends, market influences, demographics, what other players are doing. I totally geek out on those details.

Bar: Thanks. Okay, we really need to move on

John: But here's something interesting—you really have to understand not just what the current law and regulations say, but also where we've been and where we're going.

For example, did you know North Carolina was one of only two states that refused to hold a constitutional convention to ratify the 21st Amendment repealing Prohibition? We were dragged—kicking and screaming—back into legal alcohol. And we only recently got rid of our last truly "dry" county.

Now we have "wet" and "damp" counties. "Damp" means the county prohibits alcohol sales, but specific cities or towns within the county have opted in to allow it.

Bar: Great, but...

John: And then there's the Three-Tier System. It requires an independent whole-saler/distributor between the alcohol producer (like a brewery) and the retailer (like your local bar or restaurant). It's designed to prevent "tied houses"—bars or restaurants owned by breweries, like Budweiser bars back in the day—that led to anti-competitive, monopolistic practices that hurt small, independent businesses.

Bar: Yeah, that's crazy. Anyway...

John: In fact, there's a possibly apocryphal story I think is true: it's the origin of "there's no such thing as a free lunch." Brewery-owned bars used to offer free lunches—salty, cheap ones—but only if you bought a drink. And they only sold their beer.

Bar: And?

John: The point is, understanding the purpose of alcohol regulations—how they evolved, what policy goals they served—is essential to interpreting and advising clients today. Laws lag behind the industry, tech, and culture, so interpretation is often key.

Bar: Okay, I've got another meeting. Can we wrap this up?

John: Sure, sorry.

Bar: Last question. Well, one of the only questions I got to ask: Do you have any predictions for the future of alcohol law?

John: Hmmm. Like other legal areas, we're driven by client needs. And right now, the alcohol industry is in flux.

The "grab drinks with friends after work" culture that fueled pre-COVID growth hasn't really returned. Consumer habits are

shifting. There's more demand for low- and non-alcoholic options, and less demand for taproom and bar experiences. People drink at home more. Changing demographics and a shaky economy are also playing a role.

This means more business closures, consolidations, and revised models. That's industry stuff but it impacts the law.

As for alcohol law, we're on a slow but steady path toward modernizing and loosening restrictions, especially for small producers. Fifteen years ago, the only way to get an ABC permit to sell liquor and cocktails was to be a full-service restaurant or a "private club." Now we allow more traditional bars that don't have to serve food.

Huffman

But keeping up with new products is a constant battle. Remember powdered alcohol? It wasn't a "beverage," so initially ABC had no jurisdiction. Same with pre-made alcoholic Jello shots. The legislature had to step in to bring them under ABC rules for safety, taxation, etc.

Now we're dealing with adjacent products—like hemp-based beverages. They can be intoxicating, but they're not alcohol. Who regulates them? Can they be made in a brewery, distillery, or winery? Customers are asking for them, so it's an exciting (and legally confusing) time.

Bar: Dude. I really need to go.

John: Cool. Can I buy you a beer? You've earned it.

Bar: No doubt. Yeah, okay—I can stay for a beer.

Finding My Niche: Building a Practice Where Creativity Meets Code

By Brandon J. Huffman

When I went to law school I didn't know I would end up a "video game

lawyer." Even within entertainment and intellectual property circles, there weren't a lot of them running around. But I've always been interested in where creativity meets innovation, and I've built a practice around exactly that.

Early on I imagined I'd either work in traditional linear entertainment (film and TV deals) or do altruistic courtroom work and take chickens as payment. In law school I became fascinated by copyright, licensing, and the way legal frameworks shape the busi-

ness of storytelling in film, music, books, and games.

When my career began in the aftermath of the Great Recession, I was working in litigation for municipal clients in Florida. From there, I pivoted to First Amendment litigation in Raleigh. My first few clients in the game industry came through referrals: a small studio here, an indie developer there.

Their questions ranged from trademark infringement issues to simple LLC formation. I've always played video games, but in these early client interactions, I quickly realized that the legal needs of those creating video games are as multifaceted as the games themselves.

Today, I lead a boutique law firm focused on the games industry, digital media, and the creator economy.

My team and I work with developers, publishers, streamers, tech startups, and more. Our work is transactional. We're not in courtrooms—we're in contracts. We help clients build businesses, protect their content, and make deals. We also help them navigate (and sometimes draft) the fine print: platform terms of service, user-generated content issues, emerging AI tools, and the ever-evolving laws around monetization and data.

So what does it mean to be a video game lawyer?

In practice, it means applying traditional legal skills—as a corporate, contracts, and IP attorney—in a fast-moving, somewhat insular, and often misunderstood industry. It also means translating between creative, business, and legal frameworks. One day I could be closing a Series Seed financing or an M&A transaction; the next, I'm reviewing a publishing agreement or helping a developer license music and celebrity likenesses for an

off-color horror game. I might be explaining derivative works in a copyright dispute over fan art or advising on the legality of a monetization strategy.

The field is challenging but fascinating. The law isn't always clear or current. Technology often moves faster than regulation. That's part of what makes the work rewarding: we get to help shape how legal concepts apply to new forms of expression and commerce.

And it's not a small field. The US video game industry generated \$57.2 billion in consumer spending in 2023 (and the global industry is much larger). Nearly two-thirds of Americans play video games regularly, cutting across all demographics and backgrounds. The industry supports a total of 350,000 jobs across the country—many of which are right here in North Carolina.

When people ask if being a game lawyer is "a real thing," I usually tell them: it's more real than most people think. What often sticks with me is how creative and committed these clients are. They're building worlds. They're creating experiences that move people, entertain them, and sometimes even change the way they see the world. Having a small role in supporting that art and helping people grow sustainable businesses is an incredible privilege.

Looking ahead, the intersection of games and law will only get more complex. We're already seeing legal questions around virtual worlds, player-generated content, generative AI tools, data regulation, and the persistent blending of media toward "transmedia" experiences. Games are becoming platforms for storytelling, social interaction, education, and commerce. The laws that govern them will need to keep up.

The most common question I get from other lawyers is: "How did you get into this?" Or from students: "How can I get into this?" My answer is usually this: be curious, stay current, and follow the clients. Niche practices emerge when lawyers are willing to learn a new space and serve a community others haven't paid enough attention to yet. For me, that was the games industry. I showed up in person at events—repeatedly—for years. I made friends. The same approach can be used in any industry. If you can bring legal clarity to a fast-growing but underserved area, you'll find clients and a niche worth building.

I didn't set out to be a video game

If you had told me ten years ago that my legal career would pivot from defending those charged with criminal offenses to advising clients on how to legally manufacture THC gummies in a commercial kitchen with no hemp license but plenty of entrepreneurial spirit, I would have assumed you'd eaten one too many edibles.

lawyer. But in many ways, it's exactly the practice I was meant to have. It lives at the intersection of art, business, and technology. It's a reminder that our work as lawyers doesn't have to be narrow. It can be as creative and expansive as the industries we

Out of curiosity, we asked Brandon what his favorite video game of all time is. Here's his

In terms of impact on my professional life, Half Life is the first game I modded and probably more than anything opened my eyes to game development as an art form. Emotionally, though, Zelda: Breath of the Wild carried me though some very hard days and nights when my daughter was in the hospital at WakeMed and my wife was living there with her (she was a baby) and it resonates with me on a different level as a result.

The games I have the most hours in are all in the Civilization franchise, with Stardew Valley close behind.

But in terms of overall impact, it's hard to overstate the lasting power of games like Doom and Mario.

So, You're in Cannabis Law? A Field **Guide to My Accidental (Yet Strategic) Legal Obsession**

By Morgan Davis

How I Got Into Cannabis Law: "Wait, This Is Legal Now?"

If you had told me ten years ago that my legal career would pivot from defending those charged with criminal offenses to advising clients on how to legally manufacture THC gummies in a commercial kitchen with no hemp license but plenty of entrepreneurial spirit, I would have assumed you'd eaten one too many edibles.

I spent seven years elbow-deep in drugs, sex, violence, and theft. I came to know the legal system's take on cannabis intimatelywhere possession got you a record, and "intent to distribute" often meant "you had it in a sandwich bag." But then, in 2018, the Farm Bill (Agricultural Improvement Act of 2018, Pub. L. No. 115-334 (2018)) removed hemp from the Controlled Substances Act, and suddenly the same

plant that once got my clients locked up became a federally legal cash crop.

Specifically, Section 1639o of Title 7 of the Farm Bill exempts "hemp," defined as "the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, [and] cannabinoids... with a delta-9 [THC] concentration of not more than 0.3 percent on a dry weight basis."

Naturally, I did what any nerdy, cautious, research-obsessed attorney would do: I dug in, cross-referenced legislation with realworld application, and started my own boutique firm focused on cannabis law. And guess what? It worked—because no one, including regulators, knew (and arguably still don't know) what was going on.

Why I Find Cannabis Law Fascinating: It's Like Building a Plane While Flying It

The cannabis industry is basically the legal equivalent of a moon landing attempt by a committee made up of 50 state governments, one dysfunctional Congress, and a few alphabet agencies (DEA, FDA, USDA) shouting contradictory instructions.

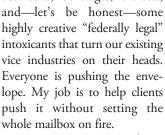
Here's why I love it:

• It's legally unstable. What feels like every week, something shifts. The DEA issues contradictory guidance about what is a "synthetic cannabinoid." A federal court rules that the DEA isn't the best source of knowledge on what is a controlled substance (Tonya Anderson v. Diamondback Investment Group, LLC, No. 23-1400 (4th Cir. 2024)).

The FDA issues a warning letter but tells Congress it has no ability to regulate cannabis. A state passes a hemp bill with language so vague it could be interpreted as regulating either cannabis or cocoa.

• Innovation is rewarded. Hemp isn't just flower and seeds anymore. It's edibles,

> gummies, vapes, bath bombs, cosmetics, beverages, extracts,



• No one agrees on anything. The USDA says it's hemp. The

DEA says it's marijuana. The FDA says don't eat it. The Department of Agriculture in State A says, "We're not touching that," while their Department of Health drops new milligram caps overnight. Right across State A's border, State B says it defers to federal law-but doesn't say which one. The legal questions aren't just complex—they're contradictory.

Davis

· The line between civil liability and criminal liability is razor-thin. Hemp is a biological product. Over time, like all biological products, it changes. One change is that delta-9 THC concentration can increase past the 0.3% threshold (i.e., hemp can become marijuana). This shift is only detectable through chemical analysis. Result? A business may manufacture or sell a legal product that becomes illegal-without their knowl-

In short, it's a field for lawyers who don't mind uncertainty and live for footnotes. I thrive here.

Funny Anecdotes: "Did You Just Say This Product Is a 'Sleepy-Time Legal Joint'?"

Oh, the stories I could tell. Let me give

you a few hypotheticals based on real life:

1. The "Sleepy-Time Joint" Conundrum

A well-meaning client once asked if they could market their product as "bedtime cannabis for moms who hate melatonin." We had to go over several issues:

- First, no, the FDA doesn't love it when you imply medical claims.
- Second, don't use the word "joint." Like it or not, slang words like that are quickly associated with marijuana, which is still illegal. You're selling a legal product—market it as such.

2. The "Interstate Shipment" FAQ

Me: "You can't ship this to Idaho."

Client: "What if we put a sticker on it that says it's not for sale in Idaho?"

Me: "Idaho law enforcement doesn't care about your sticker."

Is Cannabis Legal in North Carolina or Not?

Ah, the million-dollar question. Is it legal? The answer is...yes, and no, and maybe—depending on the THC level, the agency you ask, and the county you're standing in.

Let's break it down:

- Is hemp legal in North Carolina? Yes, if it contains <0.3% delta-9 THC by dry weight (N.C.G.S. 90-87(13a)).
- CBD? Legal, but not approved by the FDA as an ingredient for human consumption. North Carolina permits all hemp products (N.C.G.S. 90-87(13b)), but the NCD-HHS follows FDA guidance.
- THCA flower? Yes, as long as it complies with the 0.3% delta-9 THC limit. But if heat converts it and spikes the delta-9, you're at risk.
- Medical marijuana? Not yet, but the legislature keeps flirting with it.
- Recreational marijuana? Don't hold your breath—unless you're in Asheville or Durham, where enforcement seems... optional.

In short: "Is cannabis legal in North Carolina?" is a question best answered with a whiteboard, a flowchart, and a shot of espresso

Prognostications About the Future: Buckle Up, It's About to Get Weird

1. Federal Regulation Is Coming

The 2026 Farm Bill could drastically limit ingestible hemp with any THC. If passed as-is, much of today's hemp industry

could vanish overnight—or pivot into illegal gray markets. Or open smoothie bars. It's anyone's guess.

2. THC Beverages Are the Next Battleground

Expect tighter controls: per-serving THC caps, packaging requirements, and consumer registries. Several states (Kentucky, Alabama, Tennessee) have already moved THC beverages under their alcohol regulatory frameworks.

3. Synthetics: Still Confusing and a Big Point of Contention

The DEA has issued multiple guidance memos on "synthetic cannabinoids"—none of which have settled what "synthetic" actually means. Their interpretation seems to contradict the federal hemp definition. Some states (like North Carolina) don't define "synthetic cannabinoid" at all.

4. Litigation Is On the Rise

Class-action lawsuits over mislabeled THC products are just the beginning. Expect suits over contamination, false advertising, failed drug tests, and more. Every significant attempt to ban or restrict hemp has led to litigation—some of which have successfully blocked enforcement.

Frequently Asked Questions (FAQs)

Q: Can I legally sell THC products in North Carolina?

A: If it contains no more than 0.3% delta-9 THC, yes.

Q: Is THCA legal?

A: Yes. THCA is a naturally occurring cannabinoid. If the product contains THCA and <0.3% delta-9 THC, it qualifies as legal hemp.

Q: Do I need a license to make hemp products?

A: Not in North Carolina—yet. But pending legislation may soon require it. Many other states already require licenses to manufacture, distribute, or retail hemp products.

Q: If hemp is legal, why do I see people getting arrested on the news?

A: Various law enforcement agencies have conducted raids throughout North Carolina. Many individuals face charges for selling what appears to be legal hemp. The confusion around the law affects everyone—including law enforcement.

Closing Thoughts: This Is Not a Drill

The cannabis industry is no longer the

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My job is part advisor, part navigator, part therapist. The future of cannabis law will reward the prepared. My motto: Let's stay weird—but compliant. ■

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What Happens in Criminal Cases When the Original Judge is No Longer Available?

BY SHEA DENNING

Questions sometimes arise in criminal cases about whether a new judge may pick up duties initially undertaken by another judge who is no longer available. Consider the following scenarios.

- 1. Trial begins with Judge A presiding. Judge A falls ill on day three of trial. May Judge B substitute as the presiding judge?
- 2. Judge A presided over a suppression hearing in December 2024, just before her term expired at the end of the year. Judge A announced her ruling in open court and directed the prevailing party to prepare an order containing findings of fact and conclusions of law. Judge A did not sign the order before her term expired. May Judge B enter an order containing findings of fact and memorializing Judge A's ruling?
- 3. Judge A also presided over a probation violation hearing in December 2024. She determined that the defendant violated the terms of his probation, and she modified the judgment, announcing her ruling in court. She did not sign the judgment before her term expired. May Judge B sign the judgment memorializing Judge A's decision?

The answers to the questions posed above are, respectively (1) yes, (2) no, and (3) maybe. Keep reading to learn why.

Scenario One. G.S. 15A-1224(a) permits, but does not require, a judge to order a mistrial if the judge "by reason of sickness or other disability" is unable to continue presiding over the trial without having to continue the proceeding. Subsection (b) of that statute gives the judge another option: If the judge "before



whom the defendant is being or has been tried" is unable, due to "absence, death, sickness, or other disability" "to perform the duties required [] before entry of judgment" any other judge assigned to the court may perform those duties. G.S. 15A-1224(b). The substitute judge is, however, required to order a mistrial if he concludes that he cannot perform those duties. He may reach that conclusion because he did not preside at an earlier stage of the proceedings or "for any other reason." *Id.*

Thus, there is a straightforward statutory answer to the question in scenario one. Judge A fell ill during trial. She did not declare a mistrial. So long as Judge B is assigned to the session, Judge B may substitute as the presiding judge. If Judge B concludes that there is some reason he cannot properly preside over the trial, Judge B must order a mistrial.

The court of appeals applied this rule in *State v. Holly*, No. COA12-1557, 2013 WL 4004330, 228 N.C. App. 568 (2013) (unpub-

lished), finding proper the temporary substitution of another judge during defendant's trial. In Holly, the presiding judge became ill and was unable to preside over the portion of the trial that included the State's closing argument. A substitute judge presided in his stead. Following the State's closing argument, the original trial judge returned to the bench and presided over the remainder of the trial. The Holly court noted that G.S. 15A-1224(b) allows another judge to perform duties that the presiding judge cannot perform due to sickness or other disability. It concluded that the statute did not require that the presiding judge be "fully debilitated for the remainder of the trial in order for another judge to properly step in and perform judicial duties during a portion of the trial." Id. at *11. Thus, the court held that the return of the original judge later in the day of the substitution did not render the substitution improper.

Scenario Two. Recall that in scenario two, Judge A presided over the suppression hearing and announced her ruling but left office before entering an order. The question is whether another judge may enter an order making findings of fact and memorializing Judge A's ruling. As previously revealed, the answer is no. Why? First, while G.S. 15A-1224(b) authorizes the substitution of another judge when the judge "before whom the defendant is being or has been tried" is unable to complete his duties, it does not authorize the substitution of a judge to enter an order memorializing a ruling on a motion made by another judge. See State v. Bartlett, 368 N.C. 309, 313 (2015) ("By its plain terms, subsection 15A-1224(b) applies only to criminal trials, not suppression hearings.").

Second, when a motion to suppress raises a material conflict in the evidence, the trial court must resolve those conflicts by making explicit factual findings that show the basis for the trial court's ruling. Id. at 312-13 (concluding that G.S. 15A-977 "contemplates that the same trial judge who hears the evidence must also find the facts."). The trial court may make those findings orally or in writing, but in either case they (and the court's ruling) must be made a part of the record. Id. (deeming an oral ruling inadequate as it did not contain a definitive finding of fact that resolved the material conflicts in the evidence; noting that without such a finding, there can be no meaningful appellate review); cf. State v. Ditty, 294 N.C. App. 178, 186-87 (determining that the trial court's ruling on the defendant's motion to enforce the

plea agreement was rendered when it was announced in open court, but was never entered because there was no entry indicating that the order was "spread upon the record" by the clerk through the ministerial act of filing or recording) (internal citations omitted).

Importantly, only the trial judge who heard the evidence may find the facts. Bartlett, 368 N.C. at 313. This is because the presiding judge "sees the witnesses, observes their demeanor as they testify and by reason of his more favorable position...is given the responsibility of discovering the truth." Id. (quoting State v. Smith, 278 N.C. 36 (1971)). In Bartlett, the North Carolina Supreme Court held that a judge who did not conduct a suppression hearing lacked the authority to subsequently enter a written order resolving an evidentiary conflict. There, a superior court judge conducted a suppression hearing in December 2012, orally granted the defendant's motion to suppress without making definitive findings of fact, and asked counsel to prepare a written order. The judge was not able to sign the proposed order before his term of office expired. The defendant subsequently presented the proposed order to another superior court judge who signed it without hearing any evidence himself. The order found that the defendant's expert was credible, gave weight to the expert's testimony, and used the expert's testimony to conclude that the defendant's arrest was not supported by probable cause. The State appealed. The state supreme court held that the second judge lacked authority to enter the order and remanded the matter for a new suppression hearing. The court noted that a trial court "is in no better position than an appellate court to make findings of fact if it reviews only the cold, written record," and rejected an interpretation of G.S. 15A-977 that "would diminish the trial court's institutional advantages in the fact-finding process." Id. at 313; but cf. State v. McCord, ____ N.C. App. ____, 906 S.E.2d 538, 541 (2024) (concluding that a judge in a Miller v. Alabama resentencing hearing may make credibility findings regarding the evidence offered at the trial to support his sentencing decision even when that judge was not the presiding judge at trial).

In *State v. Fearns*, ____ N.C. App. ___, 914 S.E.2d 1, temp. stay allowed, ____ N.C. ___, 912 S.E.2d 850 (2025), the court of appeals applied the reasoning in *Bartlett* in support of its determination that a judge lacked authority to enter an order denying a defendant's motion to dismiss when the hearing on that motion

was held by another judge. The court said it could find no statutory authority for the subsequent judge's order, noting that G.S. 15A-1224(b) is inapplicable to rulings on motions to dismiss. A concurring judge emphasized that the written dismissal order contained a conclusion of law that contradicted the original trial judge's orally rendered conclusion; both judges determined that the defendant was not entitled to dismissal of the charges for the State's failure to timely prosecute, but disagreed about whether the defendant was prejudiced by the delay. The concurrence urged "a tempered application" of Bartlett, as that court reached its conclusions after analyzing the procedures for deciding a motion to suppress prescribed by G.S. 15A-974 and -977, and the statute under which the defendant filed her motion to dismiss, G.S. 15A-954(a)(4), did not contain similarly specific requirements about findings of fact and conclusions of law.

Scenario Three. Recall here that Judge A presided over a probation violation hearing in December 2024. She determined that the defendant violated the terms of his probation, and she modified the judgment, announcing her ruling in court. She did not sign the judgment before her term expired. May Judge B sign the judgment memorializing Judge A's decision? The answer to this question is not entirely clear.

In civil matters, Rule 63 of the North Carolina Rules of Civil Procedure authorizes a designated substitute judge (typically the most senior resident superior court judge or, in district court, the chief district court judge) to perform certain ministerial duties—including entry of judgment—following a trial or hearing presided over by a judge who can no longer perform her duties. To the extent that any judgment signed by Judge B conformed with Judge A's oral pronouncement, the entry of that judgment would be ministerial. See State v. Miller, 368 N.C. 729, 737 (2016) ("[R]endering a judgment or an order means to pronounce, state, declare, or announce the judgment or order, and is the judicial act of the court in pronouncing the sentence of the law upon the facts in controversy....Entering a judgment or an order, on the other hand, is a ministerial act which consists in spreading it upon the record.") (internal citations omitted)); see also G.S. 15A-101(4a) (providing that "[j]udgment is entered when sentence is pronounced."). Nevertheless, the court in State v.

CONTINUED ON PAGE 25

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The Myth Behind North Carolina's Mandatory Construction Warranty

BY PAUL A. CAPUA

he first time a general contractor client mentioned, matter-of-fact, that North Carolina law required general contractors to provide a one-year construction warranty on their work, I was worried. As a construction

lawyer who

frequently

negotiates and drafts construction contracts

and warranty clauses for a living, I should

know that. How could I have missed it?

Anxious of what I might find, I did some research, but nothing came up. I asked other attorneys in our office to do the same, and they, too, found nothing. I moved on, as confident as one can be proving a negative. But then, I heard it again from another general contractor, and another. The seeds of doubt were sprouting again when, just the other day, I heard it again: "...right, but North Carolina requires me to give a one-year warranty." I was in a meeting with a client and, as nonchalantly as possible, I asked where she'd heard this. She said all contractors are taught it and that it's common knowledge. I said I was sure no such requirement exists and when she glared back



skeptically, I did the only honorable thing one can do under the circumstances: I bet her a dollar I was right. Our client politely declined and suggested I write this article instead.

North Carolina law does not require general contractors to provide a one-year construction warranty for their work. The belief that it does appears to be a common yet understandable misconception. This confusion likely arises because of the implied warranty of workmanlike construction and industry

standards. Under North Carolina law, the implied warranty of workmanlike construction as articulated in *Hartley v. Ballou* exists by operation of law (i.e., is implied) and is not dependent on the existence of a written contract between the parties. That is, the implied warranty can exist whether there is a written agreement in place between the parties or not. But to say that the implied warranty is the same as requiring a warranty or even a one-year warranty is incorrect and contravenes a funda-

mental principle under North Carolina law that grants parties the freedom to allocate, by contract, risk in a construction project.

Not only is there no one-year warranty requirement, but under North Carolina law, parties to a construction contract are free to eliminate the implied warranty of workmanlike construction altogether. That is, the parties can negotiate and bargain for no warranties whatsoever or craft whatever warranty they choose, which can vary in both scope and duration. For example, in the wake of Hurricane Helene or other disasters, contractors wanting to donate their services or provide them at below-market rates would find this flexibility helpful.

I now think I understand why general contractors assume they must provide a construction warranty, and the confusion is well-founded. The law of contracts, which includes the law of express and implied warranties, is a confusing area of the law to begin with and legal precedent and statutory requirements have established standards that can make it even more confusing. Cases like *Leggette v. Pittman* and *Allen v. Roberts Constr. Co., Inc.* illustrate that building contractor's warranties often include provisions that any defects arising within a period of one year will be repaired or replaced by the builder at no cost to the owner and re-

quire the owner to notify the builder of any nonconformities within one year.

Similarly, Dan King Plumbing Heating & Air Conditioning, LLC v. Harrison notes that in actions for breach of a construction contract, there is an implied warranty that the contractor or builder will use customary standards of skill and care based on the particular industry, location, and timeframe in which construction occurs. Without distinguishing between the type of warranty, I imagine most contractors would say that a one-year construction warranty is the industry standard, perhaps reinforcing the belief among general contractors that they must provide it. And, while that may be true of express warranties, it is certainly not the case for implied warranties, which extend for three years (N.C. Gen. Stat. § 1-52) and possibly beyond. See N.C. Gen. Stat. § 1-50(5)(a).

These cases and standards might make it seem to the general contractor that a construction warranty is required when, in reality, it's not. Instead, it's far better to think of it this way: under NC law, a warranty will be implied by law and industry standards in the absence of a written warranty excluding it.

I'll bet you a dollar I'm right!

Whether you are a builder or owner, it is important to understand how to negotiate

and craft agreements that protect your interests and allocate risk suitable to the needs of your project. If you are embarking on a construction project and want to learn more about managing risk, it is advisable to consult with an attorney.

Paul Capua is an AV-Preeminent® rated civil trial lawyer and is recognized by Chambers & Partners in construction law. His 30 years of practice and trials have focused on US and international construction law and business law disputes in state and federal courts as well as international and domestic arbitrations. A former shareholder of the international litigation firm Astigarraga Davis Mullins & Grossman, P.A., Capua has enjoyed a career prosecuting, defending, and trying significant claims involving international and domestic engineering, construction, and business disputes including construction disputes involving offshore floating production, storage, and offloading units (FPSOs); oil refinery turnarounds (TARs); maritime refit and mega yacht conversions; and US commercial & residential construction projects. Capua is also the founder of Capua Law, a full-service law firm that focuses on construction and business law.

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Judge No Longer Available (cont.)

Fearns held that Rule 63 does not apply in a criminal case to authorize entry of an order by a substitute judge. *Id.* at ____, 914 S.E.2d at 6.

G.S. 15A-1224 does apply to criminal proceedings but has more limited application than Rule 63 as it applies only to criminal trials. See G.S. 15A-1224(b) (allowing another judge to perform duties when the judge "before whom the defendant is being or has been tried," is unable to do so) (emphasis added); see also Bartlett, 368 N.C. at 313 ("By its plain terms, subsection 15A-1224(b) applies only to criminal trials, not suppression hearings."); Fearns, ____ N.C. App. at ____, 914 S.E.2d at 7 (holding that G.S. 15A-1224(b) did not authorize second judge to enter order on motion to dismiss on behalf of the judge who held the hearing, announced his ruling, and subsequently retired).

Might Judge B enter judgment pursuant to his inherent authority to ensure that the court's records accurately reflect its actions? Cf. State v. Cannon, 244 N.C. 399, 403 (1956) ("It is universally recognized that a court of record has the inherent power and duty to make its records speak the truth. It has the power to amend its records, correct the mistakes of its clerk or other officers of the court, or to supply defects or omissions in the record...."); State Tr. Co. v. Toms, 244 N.C. 645, 650 (1956) ("It is well settled that in any case where a judgment has been actually rendered, or decree signed, but not entered on the record, in consequence of accident or mistake or the neglect of the clerk, the court has power to order that the judgment be entered up *nunc pro tunc*, provided the fact of its rendition is satisfactorily established and no intervening rights are prejudiced." (internal quotations omitted)); see generally Michael Crowell, Inherent Authority, Administration of Justice Bulletin No. 2015/02 (UNC School of Government November

2015). Our appellate courts have not considered whether the later entry of a judgment by a substitute judge is a proper exercise of judicial authority; that act is akin to but extends beyond the judge's actions in *Cannon*, which involved the judge entering findings in the minutes about what transpired at a trial conducted before another judge, and in *State Trust Co.*, where the judge ordered the clerk to correct the minute docket to conform to the facts. Given the lack of clarity, the safer course of action may be for Judge B to rehear the matter, assuming that the defendant's term of probation has not yet expired. ■

Shea Riggsbee Denning is the James E. Holshouser distinguished professor of public law and government and director of the North Carolina Judicial College at UNC School of Government. She writes for, teaches, and advises judicial officials on criminal law and procedure, judicial authority, administration and leadership, and court system and structure.

On Wednesday, July 23rd, 2025, the North Carolina State Bar had the honor of visiting the Eastern Band of Cherokee Tribal Court. Councilors and staff learned about the rich history and culture and gained valuable insight into the Tribal Court's civil and criminal justice systems. We're grateful to have had this opportunity to deepen our understanding of tribal law in North Carolina.

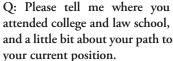


Steven B. Epstein, Board Certified Specialist in Family Law

BY SHEILA T. SAUCIER, MANAGING DIRECTOR, LEGAL SPECIALIZATION

I recently had an opportunity to talk with Steven B. Epstein, a board certified specialist in family law and a certified arbitrator and DRC-certified family financial mediator.

Steve is a partner at Poyner Spruill in Raleigh. He is also an author, having written four true crime thrillers: *Murder on Birchleaf Drive, Evil at Lake Seminole, Extreme Punishment*, and *Deadly Heist*, all published by Black Lyon Publishing LLC.



I'm a proud double Tar Heel, racing through Chapel Hill from 1983-1990. I then clerked for Judge W. Earl Britt (Eastern District of North Carolina), was fortunate enough to be the great Charles Becton's associate for two years, was the director of legal writing at the University of Illinois College of Law for another two years, and then spent 14 years at Hunton & Williams in Raleigh before joining Poyner Spruill in 2010, where I've lived happily ever after.

Epstein

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

When I began practicing family law in 2014 (midlife crisis #1), I became aware of the family law specialization designation and set out to do everything I could to qualify at the earliest possible juncture. Being a board certified specialist signifies that you have achieved a high level of knowledge, skill, and experience, so it's an honor in and of itself. Perhaps more important to your career, holding that designation makes it more likely clients will seek you out and other lawyers will refer work to you.

Q: Was the certification process valuable to you in any way?

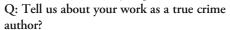
Very much so. I learned more about family law studying for the exam (because I was scared to death I would fail) than in all the

family law CLEs I've taken over the last ten-plus years. Thankfully, much of that knowledge has stuck since I passed the exam in 2020.

Q: What skills are often overlooked but critical to success in your practice area?

Family law attorneys are in court, trying cases, all the time. Even though I was a civil litigator for over 20 years before migrating

to family law, I only averaged about one trial per year. I tried 11 family law cases in 2023 alone. Therefore, you have to stay really sharp on the Rules of Evidence and how they address new types of evidence, such as text messages, Google Nest videos, GPS data from tracking devices, etc. Another critically important facet of family law is order drafting. Whether we resolve cases by settlement or through trial, it falls on the attorneys to draft the orders a judge will ultimately sign. The language contained in the order is crucial because it may be the basis for a contempt or modification proceeding, or be critical on appeal, so making sure an order is well-drafted is extremely important.



How I go about writing true crime is very similar to how I prepare a trial court or appellate brief. I try to learn everything I can from every available source—which includes court materials such as exhibits, transcripts, and briefs, in addition to media accounts, documentaries, and interviews. Then I tell the story in the most engaging way I know

how. Though I do much of my true crime research and writing in the evenings, early morning hours, and weekends, I'm sometimes mixing an interview or writing—or filming for a true crime documentary—during normal work hours. I've gotten more adept at shifting gears from my day job to my side hustle as I've written more books.

Q: What inspired you to write about true

That was midlife crisis #2. I really had no intention of becoming a writer, much less a true crime writer. I'm neither a criminal lawyer nor a true crime junkie. And I'd never attempted to write anything that wasn't directly connected to my job. But there was something about the Michelle Young murder case in Raleigh that utterly fascinated me as the case evolved over the years. I literally woke up one day and said to myself, "I think I'm going to write a book about it." I was essentially daring myself to get out of my comfort zone and do something I'd never done before. I was so certain I'd either quit or fail; to save myself the embarrassment, I only told a couple of people what I was doing. The notion that I'd complete the book (Murder on Birchleaf Drive), get it published, write three more books, appear on true crime TV documentaries—if you had told me all of that at the beginning, I would have laughed out loud.

Q: How do you choose which true crime story to pursue in your writing?

When I decided my writing experience would be more than "one and done," I started listening to true crime podcasts and watching documentaries to get ideas for new books. Though people are always suggesting topics to me, I rely on stories that people much smarter than me have already concluded will

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NC IOLTA Grant Funding Update

Legislation passed by the North Carolina General Assembly on July 9 bars North Carolina Interest on Lawyers' Trust Accounts (NC IOLTA) from grantmaking through June 30, 2026.

The provision, which was included in legislation initiated in the House and then approved as part of Senate Bill 429, the 2025 Public Safety Act, reads:

All funds received by the North Carolina State Bar, and administered by the North Carolina Interest on Lawyers' Trust Accounts (NC IOLTA) Board of Trustees, from banks by reason of interest earned on general trust accounts established by lawyers pursuant to Rule 1.15-2(b) of the Rules of Professional Conduct, or interest earned on trust or escrow accounts maintained by settlement agents pursuant to G.S. 45A-9, including any interest dividends, or other proceeds earned on or with respect to these funds, shall not be encumbered or expended

NC IOLTA News

- Launch of new website: NC IOLTA's redesigned website—nciolta.org—showcases the program's mission to improve the lives of North Carolinians by strengthening the justice system as a leader, partner, and funder. Read client and grantee stories, review information about IOLTA accounts and banking partners, and access forms and resources.
- Publication of 2024 Annual Report: NC IOLTA administered more than \$10M in grants to 29 non-profits across the state in 2024. Read about the program's impact in our 2024 Annual Report, available online at nciolta.org/annual-report. To request a print copy, email iolta@ncbar.gov.

for the purpose of awarding grants or for any purpose other than administrative costs during the period beginning July 1, 2025, and ending June 30, 2026.

NC IOLTA typically opens applications for the coming calendar year in July, with the Board of Trustees making final decisions on awards at their December meeting. Consistent with the legislation, the 2026 funding cycle has not been opened.

NC IOLTA continues to seek a resolution to preserve funding for civil legal aid, which provides a lifeline for low-income North Carolinians in crisis. We will keep stakeholders informed regarding the status of the program and any future availability of funding.

Visit nciolta.org/announcements for the most current updates.

Client Impact Story: Disability Rights North Carolina

"The smell hits you first."

That's what Kirby Morrow, advocate at Disability Rights North Carolina, said as she describes what some unethical skilled nursing facilities—also called institutions—are like. She spoke of overcrowding, lack of qualified staff, and overt neglect.

And that's the type of institution 70-yearold Wanda Tiller spent more than five years in, when she could have been living on her own with a few specialized supports.

"They call it rehab, but that's not what it is," Wanda said. "They took my money. They didn't care about my life, my body, what I wanted. I saw people die in that place."

"What happened to Wanda never should have happened," Kirby said. "In cases like hers, it feels like a war on poverty and a war on those with mental illness. Ball after ball after ball was dropped."

This all began when Wanda made one small, relatable mistake; she trusted the wrong person with her money. She invested in crypto currency, but it was all a scam. She lost tens of thousands of dollars. This started a spiral that took away her independence for years.

When she was sent to an institution, Wanda



Kirby Morrow with Wanda Tiller.

—a former nurse—didn't just lose her home. The disreputable institution took over her finances. The staff neglected her physical and mental health. They blocked her path back to the community at every turn.

Wanda knew something had to change, and she needed to advocate for herself. That's when Legal Aid of North Carolina connected her with Disability Rights NC, an NC IOLTA grantee. The Disability Rights NC team fights for the legal rights of North Carolinians with disabilities. The advocates and attorneys handle cases involving discrimination, abuse, and other rights violations of North Carolinians, like Wanda, with a disability.

The Disability Rights NC team shared that some badly run institutions like the one where Wanda was living have huge financial incentives to keep people in these types of facilities, rather than support them on a journey to reenter the community.

Kirby and Wanda got to work so Wanda could move back into the community, but the challenges continued.

Kirby sent the institution the forms they needed to fill out months in advance so Wanda could rightfully take control of her bank accounts again. They wouldn't complete them. The facility doctor refused to sign the paper

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Thanks for Calling—Ethics Hotline Reflections

BY SUZANNE LEVER, ASSISTANT ETHICS COUNSEL

fter many years with the North Carolina State Bar, I'm retiring—to spend more time with my grandchildren, stroll the beach at Topsail Island, and share my couch with a rotating cast of foster dogs who have no regard for personal space or clean upholstery. But before I go, I want to say thank you. Thank you for calling. For emailing. For reading. For asking thoughtful, sometimes difficult, often wonderfully specific questions. Most of all, thank you for caring so deeply about doing the right thing. What's struck me most over the years isn't just the questions themselves, but the sincerity behind them. Whether you were a brand-new lawyer facing your first real dilemma or a seasoned practitioner navigating a murky situation, your commitment to professionalism and client service always came through.

The calls often started the same way:

"This may be a dumb question..." (It wasn't dumb.)

"So, hypothetically speaking..." (It wasn't hypothetical.)

And sometimes: "I'm not sure who else to ask."

You asked about everything—from shared office space and trust account funds to whether your paralegal's brother-in-law's business partner's cousin created a firm-wide conflict. We talked about firm names, third-party payors, withdrawing from representation, confidentiality, and how to talk to witnesses. And always, we talked about honesty—what it means when you're speaking to a court, opposing counsel, or your own client.

Answering those questions was the heart of my job. And many of them didn't end with the phone call. They turned into *Journal* articles—each one an effort to untangle a tricky issue or shine a light on rules that can trip up even the most conscientious lawyer. Some questions took me

deep into ethics opinions, and others sent me down philosophical rabbit holes I didn't see coming. Writing about them wasn't just an effort to clarify—it became a kind of self-education.

So, if you'll indulge me in a little walk down memory lane, here are a few articles that either meant a lot to me or nearly broke my brain trying to get them right—pieces that were challenging, time-consuming, or just hard to let go of. I hope they're still helpful, or at least mildly readable.

I explored whether escheat is a noun, a verb, or just plain confusing. (Turns out, it's all three.) *Escheat Happens* remains one of my favorite article titles. The piece behind the pun grew from real calls about dormant trust funds and what to do when no one comes to claim them. Those conversations reminded me that even the driest rules carry ethical weight—and that ignoring the small stuff can quietly become a big problem.

I wrote about the awkward and often misunderstood duty to report another lawyer's misconduct under Rule 8.3 in *I'm Telling Mom!*. That article was the result of many calls grappling with when and how lawyers should speak up—even when it feels uncomfortable or risky. Writing it gave me a chance to reflect not just on what the Rule requires, but on how lawyers balance loyalty, judgment, and that familiar childhood dilemma: Do I tattle?

Things to Do During COVID Quarantine came out of the eerie stillness of early 2020. With courthouses closed and offices quiet, I took a slow, section-by-section walk through the Rules of Professional Conduct. It was part refresher, part invitation, and—if I'm honest—part distraction from stress-baking and hoarding toilet paper.

As calls resumed with regular intensity, another recurring—and notoriously tricky—issue emerged: imputed conflicts of

interest. Highly Contagious: Imputed Conflicts of Interest probably took the most time and brain power. That one unpacks the sometimes-bewildering rules around imputed conflicts, which can catch even the most careful lawyer off guard. It arose from countless calls from attorneys trying to do right by their clients while navigating the ripple effects of a colleague's conflict. If you've ever worried that a conflict might spread through your firm like a cold in a preschool, that one's for you.

While some questions tested the limits of rules and technicalities, others brought me face-to-face with the profound human challenges lawyers encounter. Some of the hardest calls—and most meaningful ones—came from lawyers worried about clients in crisis. I was humbled by how many of you paused litigation planning to prioritize someone's safety. Those conversations led to *A Client Threatens Suicide—What Can You Do?*, an article about the intersection of ethics and mental health. It's a space where compassion and professional responsibility have to work together.

And sometimes, the most humbling calls were about the callers themselves—lawyers seeking support in difficult times. *NC LAP—Help Is Out There* is an article particularly close to my heart. This article was born of calls from lawyers trying to find support—for themselves, for colleagues, for friends. Those conversations reminded me that we're human beings first. I wrote it to remind everyone that asking for help is a sign of strength and to point toward the people who are ready and willing to provide support.

If I could ask you to read just one article, it would be *Who Inspires You?* This piece didn't come from hotline calls but from reading nominations for the Distinguished Service Award. As the staff liaison for the Distinguished Service

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The Perils of Perfectionism: Why Lawyers Need to Rethink Their "Badge of Honor"

BY PATRICK KRILL, JORDANA CONFINO, AND JENS NÄSSTRÖM

In the high-stakes world of law, perfectionism is often celebrated as a virtue—a driving force behind meticulous briefs, airtight arguments, and victorious outcomes. Lawyers wear it as a badge of honor, a testament to their commitment to excellence in a profession where the margin for error is often razor-thin. But what if this cherished trait is also a double-edged sword, undermining mental health and professional longevity as much as it elevates performance? Our recent pilot study¹ of 764 private-practice lawyers suggests just that, revealing a troubling link between maladaptive perfectionism and a host of negative outcomes including stress, depression, burnout, and even career stagnation. For reasons on which we'll elaborate, it is time for the legal profession to stop romanticizing perfectionism and start acknowledging its costs.

The results of the Lawyer Perfectionism & Well-Being Survey,² an exploratory effort to document perfectionism's impact on lawyers, paint a stark picture. Lawyers with high perfectionistic tendencies—those who equate mistakes with personal failure reported stress levels twice as high as their less perfection-driven peers (3.01 vs. 1.51 on the Kessler Psychological Distress Scale). Depression followed a similar pattern, with 50% of high-perfectionism lawyers showing elevated symptoms compared to just 7% of low-perfectionists. These numbers aren't just statistics; they're also arrows pointing the way to improvement. The legal profession has long grappled with elevated rates of anxiety, depression, and substance misuse. A culture that glorifies an unattainable ideal may only be exacerbating those problems.

Why Does Perfectionism Hit Lawyers so Hard?

The answer often lies in the profession

itself. Law demands precision—miss a deadline, misinterpret a statute, or overlook a precedent, and the consequences can be catastrophic. Clients expect excellent service, ethical standards loom large, and competition for business and prestige is fierce. Technology, too, has raised the bar, with tools like e-discovery amplifying expectations for fast, error-free results. Many lawyers also enter the field with perfectionistic tendencies already in place, and they are further honed by the grueling gauntlet of law school and reinforced by a culture that equates success with flawlessness.

To be clear, not all perfectionism is harmful. Adaptive perfectionism is flexible and fueled by a growth mindset. It allows for high standards without compromising self-worth or resilience. When perfectionism is purpose driven and flexible, it becomes a tool—not a trap. Maladaptive perfectionism, by contrast, is rigid, identity-defining, and fear-driven—it equates mistakes with personal failings and deploys self-criticism as motivation. And when perfectionism becomes maladaptive—when it's driven by a need for approval and fear of failure rather than a pursuit of excellence—it turns toxic.

The Mental Health Toll is Steep

Our study aligns with broader research outside of law linking perfectionism to anxiety, depression, and burnout—conditions all too familiar to lawyers. High-perfectionism lawyers don't just feel stressed, they're also trapped in a cycle of self-criticism and unrealistic expectations. A mistake isn't just a misstep—it's felt as a personal indictment. And this chronic distress doesn't stop at the mind, it spills over into physical health, with numerous stress-related issues like migraines, weakened immune systems, and cardiovascular problems lurking as silent threats. For a



profession that prides itself on resilience, this vulnerability is a bitter irony.

Perfectionists, the study found, are trapped in a cycle of self-imposed pressure and chronic self-criticism. They set impossibly high standards, then beat themselves up when they inevitably fall short. This isn't just stressful, it's exhausting. High-perfectionism lawyers scored higher on workaholism and struggled more with work-life balance, painting a picture of professionals who can't switch off even when pushing forward is no longer fruitful.

The Damage Isn't Limited to Well-Being

Perfectionism also undermines the very performance it's supposed to enhance. Our study found that high-perfectionism lawyers struggle with procrastination, workload management, and delegation—habits that erode efficiency. This aligns with what psychologist's call "perfectionist paralysis"—a fear of failure so intense it leads to procrastination or spending excessive time worrying about a task without actually getting started. Instead of working smarter, perfectionists drown in details, micromanage, and resist

delegating, convinced no one else can meet their standards.

Our survey suggests they're also less bold, scoring lower on willingness to tackle challenges, and more disengaged. Perfectionists' fear of feedback—both giving and receiving—stifles growth and collaboration, while a "win at any cost" mentality hints at potential ethical risks. Far from being the secret to success, perfectionism can paralyze lawyers, locking them into a fixed mindset where learning takes a backseat to appearances.

Also noteworthy is the impact on retention. High-perfectionism lawyers in our study averaged just 5.3 years at their firms, compared to 8.4 years for their low-perfectionism counterparts. Their intention to quit is also markedly higher, especially among younger lawyers and women, who report elevated perfectionism and stress. In some cases, this turnover isn't just a personal loss, it's an organizational loss as well, draining institutional knowledge and hiking recruitment costs. It is unfortunate that those most obsessed with proving their worth may be the first to flame out.

Here's the Silver Lining

Unlike innate traits, maladaptive perfectionism is malleable. Cognitive-behavioral therapy (CBT) offers proven tools—reframing self-criticism, building self-compassion, and setting realistic goals, that can dial back its worst effects. Coaching, too, shows promise.

It is our belief, backed by significant research outside of law, that lawyers can shed these harmful tendencies without losing their edge. Imagine lawyers who strive for excellence but don't crumble under self-doubt, who take risks without fearing failure, who collaborate without controlling. That's not a pipe dream—it's a possibility grounded in science.

Of course, individual fixes alone won't cut it. The profession's perfectionist culture, often including unrelenting expectations and a sink-or-swim ethos, fuels the problem. The legal culture that glorifies perfectionism needs an overhaul. Firms must stop rewarding workaholism and start training leaders to foster psychological safety—spaces where mistakes are treated as learning opportunities, not career-enders—and model growth over flawlessness. These changes won't happen overnight, but they are worthy pursuits deserving of attention.

Critics might argue that perfectionism is non-negotiable in a field where the stakes are

sky-high. Clients won't tolerate errors, and firms can't afford to loosen standards. But our study challenges this logic and suggests that perfectionists aren't inherently better performers, they're just more stressed and less adaptable. Excellence doesn't demand self-flagellation, and clinging to this perfectionist myth creates more risk than benefit.

To be clear, our pilot study is neither perfect nor conclusive. Its findings highlight the need for additional research to further explore and confirm the trends we observed, investigate causality, and test interventions designed to help lawyers make improvements in this realm. At the same time, however, our findings echo decades of research on perfectionism outside of law and suggest that the more universally observed lessons about the perils of perfectionism apply equally to lawyers.

For now, the message seems obvious: Perfectionism isn't the superpower lawyers think it is. In fact, it's sometimes a liability masquerading as a strength, exacting a steep toll on our minds, bodies, and careers. Rather than continuing to polish this tarnished badge, it's time to trade it for resilience, flexibility, and a healthier path to success.

Jordana Confino (jordana@ jordanaconfino.com) is an attorney, certified professional coach, and founder of JC Coaching & Consulting, a company devoted to helping lawyers and other high achieving professionals enjoy greater satisfaction and sustainable success in their lives and work. She is also an adjunct professor at Fordham Law School, where she previously served as the assistant dean of professionalism.

Patrick Krill (patrick@ prkrill.com) is a lawyer, licensed and board-certified addiction counselor, and researcher who has initiated and helped lead many of the legal profession's efforts to improve mental health. He is the founder of Krill Strategies where he serves as a trusted advisor and go-to educator for discerning legal employers around the globe.

Jens Näsström (jens@ ambitionprofile.com) is a Swedish occupational psychologist and independent researcher dedicated to improving performance and well-being within the legal profession. He has worked extensively across the Nordic region, including collaborating with the Swedish Bar Association, the Danish and Finnish Bar Associations, and Thomson Reuters and more than 50 law firms across a

dozen countries.

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Endnotes

- 1. nalp.org/2024_lawyer_perfectionism.
- $2. \ nalp.org/uploads/Perfection is m2024/The Perfection is t-Paradox_Report on 2024 Lawyer Perfection is mStudy.pdf$

Legal Specialization (cont.)

resonate with true crime audiences.

Q: Your fourth and most recent book, *Deadly Heist*, just came out this year. Do you have another book in the works yet?

I do. I'm working on a book that has eerie similarities to the Michael Peterson/staircase murder. It is set in Syracuse, New York, and involves a 61-year-old mother of four, Leslie Neulander, who supposedly fell in her shower and died from her injuries. Though her death was initially ruled accidental, her husband, a successful obstetrician, was eventually tried for her murder. I'm well into the research, have already interviewed over a dozen people, and am working on travel arrangements for a scouting trip to Syracuse. I'm so early in the process, though, I doubt this one will be published before 2027.

Q: What is the most valuable lesson you've learned that you didn't learn in formal education?

I would say the most valuable lesson is one I didn't begin to appreciate until recently: if you strive for perfection, you are guaranteed to constantly fail and then beat yourself up over those failures. Though that pursuit of perfection helped me do well in education and my career, any success I had was fleeting and outweighed by the disappointment of my failures—when I fell short of the illusory goal of perfection. My new mantra is "good enough." It allows me to glide through life happier and with much more satisfaction than in my perfection-striving days. I wish I would have learned that lesson 30-40 years ago. ■

For more information about the specialization program, please visit our website at nclawspecialists.gov.

Grievance Committee and DHC Actions

Suspensions & Stayed Suspensions

John Mansfield of Raleigh engaged in criminal conduct, including assault on a female, during his tumultuous relationship with a woman who eventually became his client. The DHC entered a consent order suspending Mansfield for two years, with the ability to seek a stay after six months.

Robert Tucker of Asheville failed to timely file and pay over income taxes withheld from employees in 2009-2011. Following Tucker's default, the DHC suspended his license for three years with the ability to seek a stay after one year.

Dismissals

It was alleged that **Anastasia Cowan** of Charlotte testified falsely about advice she received from State Bar ethics counsel. At the close of the State Bar's evidence, the DHC granted Cowan's motion to dismiss.

It was alleged that **Jaime Halscott** of Florida filed a frivolous complaint to collect legal fees from two mentally disabled former clients and their guardians. Halscott's motion to dismiss for lack of jurisdiction was denied by the DHC and he filed notice of appeal. In light of the court of appeals' subsequent decision in *State Bar v. Muzinguzi*, the State Bar voluntarily dismissed the complaint against Halscott.

Completed Grievance Noncompliance Actions before the DHC

On July 10, 2025, the chair of the DHC suspended the law license of **Tiana Danise Young Morris** of Houston for noncompliance with the grievance process.

Completed Grievance Review Panels

Six Grievance Review Panels were held this quarter. The panels affirmed the original disposition in two files. Two files were remanded with a recommendation for lesser public discipline, and two files were remanded with a recommendation for private discipline.

Orders of Reciprocal Discipline

The chair of the Grievance Committee en-

tered an order of reciprocal discipline reprimanding Raymond Sitar of New Haven, Connecticut, for violations of Rules 4.4(a) and 8.4(d) of the North Carolina Rules of Professional Conduct.

Censures

Jason Ryan Binette of Matthews allowed a client's romantic partner to prepare pleadings, sign them, and file them in the client's case using Binette's federal court electronic filing credentials. Binette did not timely comply with the court's order to refile any documents submitted, signed or co-signed by the client's partner. Binette also made a false statement in response to the grievance. He was censured by the Grievance Committee.

Courtney Bryant of Garner was administratively suspended from the practice of law in 2020 but contends she was unaware of the suspension until April 2022. She obtained the information needed to apply for reinstatement in April 2022 but did not apply for reinstatement until November 2024. Between April 2022 and November 2024, Bryant engaged in the unauthorized practice of law. She did not pay yearly membership dues or comply with CLE requirements during the four years of suspension. Bryant was censured by the Grievance Committee.

Jonathan Charleston of Fayetteville engaged in improper *ex parte* communications with a superior court judge, did not notify opposing counsel of his *ex parte* communications, and did not disclose material information to the court during those communications. Charleston was censured by the DHC.

Elisa Beth Jernigan of Erwin did not participate in good faith in the State Bar's mandatory fee dispute resolution process and did not timely or fully respond to a grievance inquiry despite multiple extensions of time and reminders from the State Bar. Instead of submitting a response to the grievance, Jernigan prepared a document entitled "signed resolution" stating that the client accepted a partial refund of legal fees paid and therefore "dismissed" pending State Bar grievances against

her. Jernigan was censured by the Grievance Committee.

Brent F. King of Davidson acted as the closing agent for what was to be a same-day double real estate closing. He had a duty to represent both the borrower and the lender in the transaction and an obligation to disburse the lender's entrusted funds consistent with the lender's closing instructions. King's employee disbursed the funds contrary to the lender's instructions, while concurrently notifying King of the disbursement. King failed to take reasonable remedial action at the time of the incorrect disbursement. He was censured by the Grievance Committee.

Robert G. Spaugh of Winston-Salem represented a client in equitable distribution proceedings. When the State Bar's Attorney Client Assistance Program contacted Spaugh on behalf of the client, Spaugh claimed that he filed a calendar request and secured a hearing date. Spaugh told the client he would update him after the hearing. Spaugh did not file a calendar request, secure a hearing date, or update the client, and the case stagnated for two years. Spaugh represented a different client in unrelated divorce and equitable distribution proceedings. He was responsible for drafting the court's order ruling in his client's favor. Spaugh did not communicate with the client and had not drafted the order after more than six months. He agreed to provide a copy of his client file to the client's new attorney but did not do so. Spaugh was censured by the Grievance Committee.

Sammy Davis Webb of Roanoke Rapids was appointed to represent a client on multiple criminal charges. Webb did not respond to the client's repeated requests to file a motion to set or reduce bond, or repeated requests that Webb communicate with his fiancée. After Webb ignored the fiancée's previous efforts to communicate with him, she texted Webb that she would pay him, if necessary, to get the bond motion filed. Webb responded, agreeing to accept a \$15,000 fee. When the fiancée did not obtain funds to pay him, Webb stopped communicating with her. Webb first communi-

cated with the client after the client had been in jail for four months. He was censured by the Grievance Committee.

Reprimands

Alan T. Briones, formerly of Raleigh, failed to act with diligence in representing a client, abandoned the client, did not protect the client's interests upon termination of the representation, and did not obtain leave of court to withdraw. Although Briones claimed he inadvertently failed to transfer the case to substitute counsel, he did not have the client's authorization to transfer the case. He was reprimanded by the Grievance Committee.

Shante Monique Burke-Hayer of Charlotte represented the co-executor of an estate. The client occasionally gave Burke-Hayer both oral and written permission to sign the client's name on specific documents. After a conversation with the client but without the client's written authorization, Burke-Hayer signed the client's name to three documents. At her request, a notary notarized the signatures without the client appearing before the notary. The three documents were presented to counsel for the client's co-executor, to be filed in the estate administration file. Burke-Hayer was reprimanded by the Grievance Committee.

Francis Albert Collins of Lake Wales, Florida, represented a client in a civil action. Collins did not timely submit discovery responses delivered to him by the client. The court entered an order compelling the client to submit responses within 30 days, deeming requests for admissions admitted, and dismissing the client's answer and counterclaim as sanctions. When Collins did not timely and fully comply with the court's order, the court imposed an additional sanction of requiring the client to pay opposing counsel's attorney fees. Collins did not inform the client of his failures or of the court orders. Collins was reprimanded by the Grievance Committee.

Adam M. Everett of Hickory was employed as an assistant district attorney at the Wake County District Attorney's Office. At approximately 1:00 a.m. on January 1, 2021, Everett knocked on the doors of two neighbors' apartments. He was openly carrying a holstered pistol and appeared to be impaired. He informed the neighbors that he worked at the DA's Office and accused the neighbors of using and selling marijuana. Everett asked one neighbor for information related to alleged drug use and drug sales and asked a different neighbor whether he could come into his apartment to

"search" and/or "look around." When the neighbors denied the accusations and access to their apartments, Everett threatened to obtain a search warrant, if necessary. Everett was reprimanded by the Grievance Committee.

Sharon Keyes of Fayetteville represented the executors of an estate in litigation concerning a business entity in which the executors owned a one-third interest. Another party in the litigation, who also owned a one-third interest, was represented by Counsel B. Keyes knew Counsel B entered an appearance in a related partition proceeding but did not notify Counsel B of a scheduled hearing. Keyes visited the business, which is the subject of the litigation, without prior notice to Counsel B and obtained computers and passwords from the wife of Counsel B's client, who serves as the office manager, by having her sign an asset custody form. Keyes was reprimanded by the Grievance Committee.

Jenifer Boritas McCrea of Ocean Isle Beach represented a client appealing rejection of the client's creditor claim against an estate. She filed the appeal in superior court, despite having no reason to believe that was the correct forum to appeal the decision of an estate administrator. McCrea voluntarily dismissed the purported appeal and re-filed it the morning of the scheduled appeal hearing but did not tell anyone and did not appear at the hearing. The court determined it lacked jurisdiction and dismissed the appeal. McCrea told the client none of these facts. She did not timely respond to the grievance inquiry. McCrea was reprimanded by the Grievance Committee.

Jenifer Boritas McCrea of Ocean Isle Beach represented a client in a personal injury case. She admitted that she put off the client's case, failed to communicate with the client, missed filing deadlines, did not timely respond to discovery requests and a motion to compel, did not appear at the hearing on a motion to compel, and should not have agreed to take on the client's case because she had little experience in superior court. McCrea was reprimanded by the Grievance Committee.

Alton R. Williams of Raleigh was retained to represent Client 1 in a criminal matter and was paid a flat fee. Client 1 terminated the representation after three years and requested a partial refund of the fee, which Williams refused. Client 2 retained Williams in a criminal matter, paid a flat fee, became dissatisfied with Williams' services and requested a full refund, to which Williams did not respond. Clients 1 and 2 filed fee dispute petitions with the State

Bar's mandatory fee dispute resolution program. In each file, Williams was served with but did not respond to Letters of Notice, failing to participate in good faith in the fee dispute resolution process. Client 3 retained Williams to represent him in a criminal matter. During the representation, Williams was diagnosed with a serious illness and missed one of Client 3's court dates. The court issued a failure to appear and a warrant for Client 3's arrest. Client 3 was arrested. Williams was reprimanded by the Grievance Committee.

Completed Petitions for Reinstatement/Stay – Uncontested

In 2019, the DHC suspended Emily C. Moore Tyler of Raleigh for five years. Tyler altered a filed pleading after being told by the court that it could not be corrected, and falsely represented to courthouse staff and judges that someone else altered the filed pleading. With the consent of the OOC, the DHC granted Tyler's petition for reinstatement.

Completed Petitions for Reinstatement/Stay – Contested

In 2018, the DHC suspended Jeffrey D. Smith of Charlotte for two years, with the ability to seek a stay after one year, for trust account deficiencies and mishandling entrusted funds. After a hearing in June, the DHC denied Smith's petition for reinstatement.

In 2019, the council disbarred Charles Blackmon of Greensboro for misappropriating entrusted funds to which his employer was entitled. After a May hearing, the DHC recommended that Blackmon's petition be denied.

In 2019, **David R. Payne** of Zirconia was disbarred for making false statements to a bank to obtain a loan, resulting in a federal felony conviction. After a hearing in April, the DHC recommended that Payne's petition be denied. After the decision was rendered but before the DHC entered its written order, Payne filed a notice of voluntary dismissal. On the State Bar's motion, the DHC vacated the purported dismissal and entered its order. Payne filed notice of appeal to the court of appeals.

In 2018, the DHC suspended Mark V. Gray of Greensboro for four years, with the ability to seek a stay after 18 months. He did not file timely and pay federal and state income taxes and violated multiple trust accounting rules. Gray sought reinstatement but voluntarily dismissed his petition.

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Angsting About Anxiety? Pendulate to Shift Your State

By Laura Mahr

If anxiety has become a constant companion in your daily life, you're in good company. An American Psychiatric Association Poll published in May 2025 revealed that 67% of Americans are anxious about current events happening around the world, 62% are anxious about keeping themself or their family safe, and 61% are anxious about paying their bills or expenses. (See The American Psychiatric Association, bit.ly/40XTOhd.) When we face growing uncertainty, rapid change, and complex challenges, it's entirely normal—albeit uncomfortable—to feel increasingly anxious.

Our profession is especially vulnerable to *compound anxiety* (layered stress from multiple sources that build on each other), which intensifies overall anxiety. For many of us, today's current events exacerbate the stress inherent in the legal profession's day-to-day work. For attorneys and judges who are expected to be calm and clear under pressure, the resulting anxiety from stress overload may take us off guard, making it difficult to perform at optimal levels.

As national and global dynamics evolve and stressors mount, our profession needs effective, targeted tools to navigate the increasing pressure. Fortunately, practical strategies grounded in evidence-based science are already available—and can be tailored to meet the distinct demands of the legal profession. Somatic (bodycentered) practices are especially effective for decreasing anxiety, as they can be used quickly and easily when anxious sensations first arise.

Anxiety vs. Anxiety Disorder

Anxiety shows up in many forms—such as racing thoughts before a big event, throat tightness during a difficult conversation, or waking at night with a heavy chest. The difference between feeling anxious and having an anxiety disorder lies in the intensity, frequency, and impact of the experience. *Feeling anxious* is a normal, temporary response to stress or uncertainty. It is your body's way of preparing to deal with a specific challenge—like facing a



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high-stakes interaction with a challenging person. This kind of anxiety usually passes once the situation is resolved.

Anxiety disorder, on the other hand, is a medical condition marked by ongoing, excessive anxiety that persists even without an immediate threat. An anxiety disorder can interfere with daily functioning, professional performance, concentration, relationships, and sleep. It may be accompanied by more acute symptoms such as panic attacks and require professional support to manage effectively.

The purpose of this article is to offer a concrete tool to practice when you're *feeling anxious*. If anxiety feels less like a visitor and more like a roommate, consider seeking help from a professional who specializes in helping clients with anxiety disorders.

Anxiety Extends Beyond the Mind and into the Body

To effectively manage anxiety, it's necessary to recognize that anxiety is not only a cognitive state but also a bodily signal—our nervous system's way of alerting us to a perceived threat. Flight, fight, and collapse are all survival strategies that helped our ancestors escape physical

threats such as being chased by a large predatory animal. Our bodies continue to respond to mental or emotional threats as if they were physical threats. For example, if you read an email from a disgruntled client, your legs might tense up as if to run away; or your hands may clench up as if to fight; or you may suddenly feel completely exhausted, as if to collapse.

Common somatic anxiety symptoms include rapid heartbeat, muscle tension, shallow or rapid breathing, clammy hands, and stomach discomfort. Feeling numb when anxious is also possible. At times, when the nervous system becomes overwhelmed by stress or fear, it shifts into a protective shutdown mode. This response dampens sensations and emotions to reduce distress and create a sense of safety. Numbness is a sign that the nervous system is trying to manage high levels of activation by "turning down the volume" on emotional and physical sensations.

All Talk and No Action Increases Anxiety

If there is one thing that our profession excels at, it is talking! Talking about anxiety has value in that it can describe what is happening under the surface. However, talking about

anxiety without engaging body centered regulation tools can retrigger the stress response, keeping you in a stress-activation loop. Rumination loops can reinforce anxiety-producing thoughts without resolving the underlying physiological distress.

I distinctly recall the stress-activation loop that developed when I was transitioning from practicing law to becoming a resilience coach and well-being trainer. I felt anxious about making such a significant career change, and the more I discussed it, the more anxious I became. Each conversation revealed additional unknowns about how to make the shift successfully; increased unknowns led to greater doubts, which in turn escalated my anxiety. With heightened anxiety came diminished confidence about making the shift, thereby decreasing my motivation to make the change. I felt stuck. It wasn't until I began working with skilled mind-body-centered practitioners that I was able to interrupt this cycle. Using a combination of Somatic Experiencing (SE) and Internal Family Systems (IFS), I was able to calm the doubt and restore my confidence so that I could move forward with greater ease.

Somatic Tools Help Manage Anxiety

One reason I am passionate about integrating somatic practices and IFS work into my current work with individual clients is because they are so darn effective. Somatic tools are mind-body techniques that focus on your internal experience; they are key for managing anxiety because they engage the body's natural ability to regulate the nervous system—facilitating the shift out of a flight, fight, or collapse response and back to equilibrium. By focusing on physical sensations rather than anxious thoughts, somatic practices interrupt rumination and anchor attention in the present moment. They allow anxiety to be processed and released through the body. This shifts the body and mind out of anxiety and into a state of physical calm and clearer thinking in the present moment.

Shifting Your State

I recently attended the 2025 Somatic Trauma Healing Summit Advanced Methods in Body-Based Therapies hosted by the Mindsight Institute (mindsightinstitute.com). Each expert emphasized the importance of using somatic practices to process trauma and anxiety through the body, facilitating an effective *shift of state*. Mindfulness and somatic practitioners use the term "shifting state" to describe inten-

tionally changing your internal experience—your current emotional, mental, and physiological condition—to respond more effectively to any situation.

When you shift your state, you can move an anxious nervous system from a place of "upregulated" activation inherent in the flight or fight responses into a "downregulated" state that feels more physically settled and mentally coherent. Conversely, if prolonged or acute anxiety leaves you feeling overwhelmed and collapsed, you can "upregulate" your state into a more energized and clear state.

There are numerous ways you may already be shifting your state without consciously thinking about it. For example, if you go for a run after an emotionally heavy work day, you may enjoy the upregulation from a "runner's high." If you try to sleep and have too much upregulated energy, you may enjoy the downregulating effects of listening to or playing calming music. You may hold a warm cup of tea or pet a purring cat to downregulate; or drink caffeine or play with an energetic dog to upregulate. Do you use food, alcohol, or other substances to up- or downregulate as well?

Pendulate to Shift Your State

One effective somatic practice to shift your state is called "pendulation." Coined by Peter Levine, the founder of SE, pendulation helps to build capacity to stay present with difficult sensations by pairing them with positive or neutral ones. Pendulation helps move awareness out of an anxious state (stress, tension, or overwhelm) and back to regulation (calm, safety, or ease) by using either an internal or external resource. Internal resources might include a soothing sensation in your body—like feeling the warmth in your arms or imagining a peaceful place in your mind. An external resource could be a calming sound, a supportive friend, or something in your environment that helps you feel grounded. Both types of resources are effective, and the good news is: we have access to them anytime, anywhere.

Try pendulating for yourself using the basic steps outlined below:

- 1. Tune into body sensations that let you know that you are feeling stress or anxiety activation. For example, is your forehead creased, or are your shoulders raised?
- 2. Shift your awareness from the activation to a calming resource. For example, the sun shining through your window, or the warmth of the sun on your skin.
 - 3. Pendulate your focus from the resource

to the activation for a short, tolerable, amount of time (five seconds). Then shift your attention back to the calming resource, spending more time focusing on the resource than on the activation (15 seconds or longer).

- 4. Track the sensations between tension and ease.
- 5. Repeat a number of times (three to five minutes) if it feels like the anxiety is calming/regulating as you pendulate. Stop if it feels like it is exacerbating the anxiety.

The rhythmic back-and-forth helps the nervous system process activation without overwhelm, gradually restoring balance and expanding the capacity to tolerate stress thereby reducing anxiety.

Pendulation in Practice

Pendulation is accessible and available right when anxiety arises. You don't need to put on your running shoes or find a kitten to pet. It can be used in court, during a meeting, or even at a stoplight. Here are a few examples of how attorneys or judges might use pendulation to reduce anxiety during the workday:

Pendulating using breath as a resource: Rafael is trying his first case in front of a jury. The more he thinks about *voir dire*, the more anxious he feels, noticing his breath becoming shallow and rapid while his thoughts spiral into worst-case scenarios. Using pendulation, he gently shifts his focus back and forth between his tense, irregular breathing into a slower, deeper, calming breath. Every time he returns to the steady breathing pattern, he feels his shoulders relax and his mind clear, helping his nervous system downregulate while preparing him to face the trial with greater calm and clarity.

Pendulating using a visual resource: Judge Baker, experiencing tightness in her chest during a complex trial, takes a moment during a break to gaze at the trees gently swaying outside the window. She consciously shifts her attention back and forth between the wind in the trees and the emotionally charged facts of the case. This visual pendulation helps her nervous system downregulate, allowing her to stay present to the hearing and feel at ease when she leaves court at the end of the day.

Pendulating using a calming sensation as a resource: Austin, a family law legal aid attorney, frequently works with clients navigating high-conflict custody cases and carrying histories of trauma. When signs of emotional overload arise—like a sinking stomach or feeling sleepy—Austin intentionally shifts their atten-

tion to calming sensations, such as the feeling of the sturdy chair beneath them. This brief shift helps upregulate their nervous system, shifting them out of collapse thereby enabling them to stay present, focused, and more resilient throughout the day.

Finding Your Way Back to Center

Shifting your state using pendulation is not about forcing yourself to feel differently when you are in distress. It is about guiding the nervous system into a more optimal regulated state by following the body's innate wisdom. With practice, you develop the ability to regulate your nervous system—upregulating or downregulating as needed—to face challenges with greater clarity and confidence. If you try it out, I would be interested to hear: what resources help you shift your state and find your way back to center?

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. After bringing herself back from the brink of burnout with the tools she now teaches, Laura brings lived experience and compassion to thousands of lawyers, judges, and support staff each year in her writing, coaching, and CLE trainings. Her work is informed by 13 years of practice as a civil sexual assault attorney, 30 years as a teacher and student of mindfulness and yoga, and ten years studying neurobiology and neuropsychology with clinical pioneers. www.consciouslegalminds.com.

In Memoriam

Gardner Howard Altman Jr. Chapel Hill, NC

Charles Dewey Barham Jr. Raleigh, NC

Plato Collins Barwick Jr. Kinston, NC

Robert "Bob" Baynes Pinehurst, NC

Austin Charles Behan Pfafftown, NC

Nora Susan Hatcher Bradshaw Raleigh, NC

Penni Pearson Bradshaw Winston-Salem, NC

Jeffrey Leon Dobson Graham, NC

Kermit Weldon Ellis Jr. Oxford, NC

James E. Ferguson II Charlotte, NC

James D. Foster Concord, NC

Charles Parson Gaylor III Goldsboro, NC

Clive Irvin Goodson Lewisville, NC

Stacy Goto Grant Charlotte, NC

Thomas Joseph Hefferon III Charlotte, NC Thomas Walters Henson Sr. Mocksville, NC

Jerone Carson Herring Black Mountain, NC

James Earl Hill Jr. Whiteville, NC

Graham Davis Holding Jr. Charlotte, NC

William Andrew Jennings Hickory, NC

John J.J. Jones Wilmington, NC

Michael Morrie Jones Goldsboro, NC

Gilbert Russell Key II Franklin, NC

Jacob Donnell Lassiter Charlotte, NC

David Albert Layton Gastonia, NC

Lorie Steinhagen Lindsley Mount Airy, NC

Anne Billings Lupton Greensboro, NC

Moses Luski Charlotte, NC

John Coble MacNeill Jr. Charlotte, NC

Thomas W. Murrell III Charlotte, NC

Patricia Fitzgerald Poole Clemmons, NC Robert Chase Raiford Burlington, NC

James Baxter Rivenbark Wilmington, NC

Joseph Boxley Roberts III Gastonia, NC

Frederick Alexander Rogers III Folly Beach, SC

Adrienne Zaneta Satchell Riverside, CA

John Paul Simpson Morehead City, NC

Barney Stewart III Charlotte, NC

Roy Dozier Trest Calabash, NC

Jan Louise Von Peterffy Huntersville, NC

George Heath Whitaker Sanford, NC

Thomas Benbury Wood Edenton, NC

Edward Marshall Woodall Lillington, NC

Melvin F. Wright Jr. Winston-Salem, NC

Terry Wayne Yarbrough Atlanta, GA

Joe Charles Young Charlotte, NC

Amendments Pending Supreme Court Approval

At its meeting on July 25, 2025, the 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 Summer 2025 edition of the *Journal* or visit the State Bar website.)

Amendments to the Rules Governing the Continuing Legal Education Program

27 N.C.A.C. 01D, Section .1500, Rule .1520, Requirements for Program Approval

The amendment to the CLE rules requires sponsors to submit approval applications for all online programs, including but not limited to on-demand programs. Lawyers would no longer be permitted to submit course applications for any online program.

Amendments to the Rules Governing the Discipline and Disability of Attorneys

27 N.C.A.C. 01B, Section .0100, Rule .0125, Notice to Complainant

27 N.C.A.C. 01B, Section .0100, Rule .0127, Imposition of Discipline; Findings of Incapacity or Disability; Notice to Courts

The amendments effectuate recommendations of the 2024 legislative committee to eliminate the process whereby grievance complainants are notified that a respondent lawyer received private written discipline or a

private letter of warning or caution, as this notification allows complainants to publicize what is supposed to be a private outcome.

Amendments to the Rules Governing the Administration of the Client Security Fund of the North Carolina State Bar

27 N.C.A.C. 01D, Section .1400, Rules .1401, .1412, .1417, .1418, Rules Governing the Administration of the Client Security Fund of the North Carolina State Bar

The amendments (1) provide for the Client Security Fund (CSF) to receive funds maintained in attorney trust accounts that are frozen pursuant to an injunction and cannot be identified due to an attorney's trust accounting deficiencies; (2) allow the Office of Counsel to seek court-ordered disbursement of such unidentified funds to CSF; (3) allow for the CSF to reimburse claimants who suffered a loss occasioned by an attorney's mismanagement and/or mishandling of funds rather than through dishonesty; and (4) allow reimbursement of claims when an attorney takes an advance fee and fails to perform any meaningful legal services on behalf of the client.

Amendments to the Rules of Professional Conduct

27 N.C.A.C. 02, Section .0100, Rule 1.15-2, General Rules

Highlights

- · On July 25, 2025, amendments to the Rules Governing the Administration of the Client Security Fund of the North Carolina State Bar were approved for adoption. The amendments authorize the Client Security Fund to receive unidentified frozen trust account funds, expand reimbursement eligibility to include losses from attorney mismanagement or non-performance, and allow court-ordered disbursements of such funds.
- · The council also approved for publication the Board of Law Examiners' proposed amendments to the Rules Governing the Admission to the Practice of Law in the State of North Carolina. These amendments include amendments related to the NextGen UBE and relocated servicemembers and spouses.

The amendments remove reference to State Bar Trust Account Compliance Counsel, as that position was eliminated in the recent restructuring of the Trust Account Compliance Department.

Proposed Amendments

At its meeting on July 25, 2025, the council voted to publish for comment the following proposed rule amendments on behalf of the Board of Law Examiners:

Proposed Amendments to the Rules Governing the Admission to the Practice

of Law in the State of North Carolina

27 N.C.A.C. 03

The proposed amendments (1) establish a new requirement that general and transfer applicants complete a North Carolina State-Specific Component Examination on Decedents' Estates and Trusts, effective for applications filed on or after November 15, 2027, and May 1, 2028, respectively; (2) revise fee structures for general and supplemental applications beginning with the July 2028 bar examination; (3) formally recognize the NextGen UBE as part of the Uniform Bar Examination administered in

North Carolina with the first administration of the NextGen UBE in North Carolina to occur in July of 2028; (4) create a no-fee admission process for military spouse comity applicants, and clarify application requirements for servicemembers; (5) clarify filing and good standing definitions, including discretion to waive certain certification requirements related to bar dues; and (6) confirm that bar exam answers will not be regraded and provide updated procedures for score disclosure and exam review.

Rule .0101, Definitions

For purposes of this Chapter, the following shall apply:

- (1) "Chapter" or "Rules" refers to the "Rules Governing Admission to the Practice of Law in the State of North Carolina."
- (2) "Board" refers to the "Board of Law Examiners of the State of North Carolina." A majority of the members of the Board shall constitute a quorum, and the action of a majority of a quorum, present and voting, shall constitute the action of the Board.
- (3) "Executive Director" refers to the "Executive Director of the Board of Law Examiners of the State of North Carolina."
- (4) "File" or "filing" or "filed" shall mean received in the office of the Board of Law Examiners. Except that applications placed in the United States mail properly addressed to the Board of Law Examiners and bearing sufficient first-class postage and postmarked by the United States Postal Service or datestamped by any recognized delivery service on or before a deadline date will be considered as having been timely filed if all required fees are included in the mailing. Mailings which are postmarked after a deadline or which, if postmarked on or before a deadline, do not include required fees or which include a check in payment of required fees which is dishonored because of insufficient funds will not be considered as filed. Applications which are not properly signed and notarized; or which do not include the properly executed Authorization and Release forms; or which are illegible; or with incomplete answers to questions will not be considered filed and will be returned.
- (5) Any reference to a "state" shall mean one of the United States, and any reference to a "territory" shall mean a United States territory.
- (6) "Panel" means one or more members of the Board specially designated to conduct

hearings provided for in these Rules.

(7) "Uniform Bar Examination" (or "UBE") means the bar examination prepared and coordinated by the National Conference of Bar Examiners that is uniformly administered by user jurisdictions and results in a portable score. This includes the NextGen UBE. To the extent that these rules refer to "bar examination," "bar exam," "examination," and "exam," those terms also refer to the UBE.

Rule .0301, Effective Date

These Revised Rules shall apply to all applications for admission to practice law in North Carolina submitted on or after June 30, 2018. Rule .0501(8) shall apply to all applications filed on or after November 15, 2027. Rule .0504(9) shall apply to all applications filed on or after May 1, 2028. All other rules shall become effective as provided by law.

Rule .0404, Fees for General Applicants

- (a) The application specified in .0402(a) shall be accompanied by a fee of eight hundred and fifty dollars (\$850.00), if the applicant is not, and has not been, a licensed attorney in any other jurisdiction, or by a fee of one thousand six hundred fifty dollars (\$1,650), if the applicant is or has been a licensed attorney in any other jurisdiction; provided that if the applicant is filing after the deadline set out in Rule .0403(a), but 0before the deadline set forth in Rule .0403(b), the application shall also be accompanied by a late fee of two hundred and fifty dollars (\$250.00).
- (b) A Supplemental Application shall be accompanied by a fee of four hundred dollars (\$400.00).
- (c) Beginning with the July 2028 bar examination, the application specified in Rule .0402(a) shall be accompanied by a fee of one thousand and twenty-five dollars (\$1,025) if the applicant is not, and has not been, a licensed attorney in any other jurisdiction, or by a fee of one thousand eight hundred and twenty-five dollars (\$1,825) if the applicant is or has been a licensed attorney in any other jurisdiction; provided that if the applicant is filing after the deadline set out in Rule .0403(a), but before the deadline set forth in Rule .0403(b), the application shall also be accompanied by a late fee of two hundred and fifty dollars (\$250.00).
 - (d) Beginning with the July 2028 bar

Comments

The State Bar welcomes your comments regarding proposed amendments to the rules. Please send your written comments by October 10 to Peter Bolac, The North Carolina State Bar, PO Box 25908, Raleigh, NC 27611.

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.

examination, a Supplemental Application shall be accompanied by a fee of five hundred and seventy-five dollars (\$575.00).

Rule .0501, Requirements for General Applicants

As a prerequisite to being licensed by the Board to practice law in the State of North Carolina, a general applicant shall:

- (1) possess the qualifications of character and general fitness requisite for an attorney and counselor-at- law, and be of good moral character and entitled to the high regard and confidence of the public and have satisfied the requirements of Section .0600 of this Chapter at the time the license is issued;
- (2) possess the legal educational qualifications as prescribed in Section .0700 of this Chapter;
 - (3) be at least 18 years of age;
- (4) have filed formal application as a general applicant in accordance with Section .0400 of this Chapter;
- (5) pass the written bar examination prescribed in Section .0900 of this Chapter, provided that an applicant who has failed to achieve licensure for any reason within three years after the date of the written bar exami-

nation in which the applicant received a passing score will be required to take and pass the examination again before being admitted as a general applicant;

- (6) have taken and passed the Multistate Professional Responsibility Examination within the 24-month period next preceding the beginning day of the written bar examination which applicant passes as prescribed above, or shall take and pass the Multistate Professional Responsibility Examination within the 12-month period thereafter; the time limits are tolled for a period not exceeding four years for any applicant who is a service member servicemember as defined in the Service Members Servicemembers Civil Relief Act, 50 U.S.C. Appx. § 511, while engaged in active service as defined in 10 U.S.C. § 101, and who provides a letter or other communication from the service member's servicemember's commanding officer stating that the service member's servicemember's current military duty prevents attendance for the examination, stating that military leave is not authorized for the service member servicemember at the time of the letter, and stating when the service member servicemember would be authorized military leave to take the examination.
- (7) if the applicant is or has been a licensed attorney, be in good standing in each state, territory of the United Sates, or the District of Columbia, in which the applicant is or has been licensed to practice law and not under any charges of misconduct while the application is pending before the Board.
 - (a) For purposes of this rule, an applicant is "in good standing" in a jurisdiction if:
 - (i) the applicant is an active member of the bar of the jurisdiction and the jurisdiction issues a certificate attesting to the applicant's good standing therein; or
 - (ii) the applicant was formerly a member of the jurisdiction, and the jurisdiction certifies the applicant was in good standing at the time that the applicant ceased to be a member; and
 - (b) if the jurisdiction in which the applicant is inactive or was formerly a member will not certify the applicant's good standing solely because of the non-payment of dues, the Board, in its discretion, may waive such certification from that jurisdiction.
 - (8) have successfully completed the

North Carolina State-Specific Component covering Decedents' Estates and Trusts, outlined below, within 12 months after the beginning day of the bar examination which applicant passes as prescribed above. The time limits are tolled for a period not exceeding 24 months for any applicant who is a servicemember as defined in the Servicemembers Civil Relief Act, 50 U.S.C. Appx. § 511, while engaged in active service as defined in 10 U.S.C. § 101, and who provides a letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents the servicemember from completing the State-Specific Component within the 12-month period after the beginning day of the written bar examination which applicant passes as prescribed above.

- (a) Composition of the North Carolina State-Specific Component. The North Carolina State-Specific Component shall consist of a multiple-choice examination covering the subject area of Decedents' Estates and Trusts.
- (b) Administration of the North Carolina State-Specific Component. The North Carolina State-Specific Component shall be offered four times per year: February, May, July, and November.
- (c) Deadlines and Fees. The deadlines and fees shall be as prescribed below.
- (i) February and July administrations. The North Carolina State-Specific Component shall be administered with the February and July bar examinations. Applicants must apply by the deadlines provided in Rule .0403. There shall be no additional fee for the North Carolina State-Specific Component when taken at the February or July administration of the bar examination.
- (ii) May administration. Applications for the May administration of the North Carolina State-Specific Component shall be filed with the Executive Director at the offices of the Board on or before the third Tuesday in April. The fee for the May administration of the North Carolina State-Specific Component shall be one hundred dollars (\$100.00).
- (iii) November administration.

 Applications for the November admin-

istration of the North Carolina State-Specific Component shall be filed with the Executive Director at the offices of the Board on or before the third Tuesday in October. The fee for the November administration of the North Carolina State-Specific Component shall be one hundred dollars (\$100.00).

Rule .0503 Requirements for Relocated Servicemember and Military
Spouse of Relocated Servicemember
Comity Applicants

A servicemember or spouse of a servicemember who has a license to practice law in a State, or territory of the United States or the District of Columbia, and relocates residence because such servicemember receives military orders for military service in the State of North Carolina, A Military Spouse Comity Applicant, upon written application may, in the discretion of the Board, shall be granted a license to practice law in the State of North Carolina without written examination if the applicant satisfies the requirements listed below provided that:

- (1) Requirements. The applicant must file an application, upon such forms as may be supplied by the Board. Such application shall require: The Applicant fulfills all of the requirements of Rule .0502, except that:
 - (a) That an applicant supplies full and complete information in regard to the applicant's background, including family, past residences, education, military service, employment, credit status, whether the applicant has been a party to any discipline or legal proceedings, whether currently mentally or emotionally impaired, references, and the nature of the applicant's practice of law. in lieu of the requirements of paragraph (3) of Rule .0502, a Military Spouse Comity Applicant shall certify that said applicant has read the Rules of Professional Conduct promulgated by the North Carolina State Bar and shall prove to the satisfaction of the Board that the Military Spouse Comity Applicant is duly licensed to practice law in a state, or territory of the United States, or the District of Columbia, and that the Military Spouse Comity Applicant has been for at least four out of the last eight years immediately preceding the filing of this application with the Executive Director, actively and

- substantially engaged in the practice of law. Practice of law for the purposes of this rule shall be defined as it would be defined for any other comity applicant; and
- (b) That the applicant provides the following documentation: Paragraph (4) of Rule .0502 shall not apply to a Military Spouse Comity Applicant.
- (i) Proof of military orders as defined in section (2)(b);
- (ii) If the applicant is the spouse of a relocated servicemember, a copy of the marriage certificate;
- (iii) A notarized affidavit affirming under penalty of law that: the applicant is the person described and identified in the application; all statements made in the application are true, correct, and complete; the applicant has read and understands the requirements to receive a license to practice law and the scope of practice of the State of North Carolina; the applicant certifies that the applicant meets and shall comply with the requirements to receive a license to practice law in the State of North Carolina; and the applicant is in good standing in all States in which the applicant holds or has held a license to practice law.
- (iv) Certificates of Moral Character from four individuals who know the applicant;
- (v) A recent photograph;
- (vi) Two sets of clear fingerprints;
- (vii) A certification of the Court of Last Resort from the jurisdiction from which the applicant is applying that: the applicant is currently licensed in the jurisdiction; the date of the applicant's licensure in the jurisdiction; and the applicant was of good moral character when licensed by the jurisdiction; (viii) Transcripts from the applicant's undergraduate and graduate schools;
- (ix) A copy of applications for admission to the practice of law that the applicant has filed with any state, territory, or the District of Columbia;
- (x) A certificate from the proper court or body of every jurisdiction in which the applicant is licensed that the applicant is in good standing, and not under pending charges of misconduct. For purposes of this rule, an applicant is "in good standing" in a jurisdiction if:

- the applicant is an active member of the bar of the jurisdiction and the jurisdiction issues a certificate attesting to the applicant's good standing therein; or the applicant was formerly a member of the bar of the jurisdiction and the jurisdiction certifies the applicant was in good standing at the time that the applicant ceased to be a member; and if the jurisdiction in which the applicant is inactive or was formerly a member will not certify the applicant's good standing solely because of the non-payment of dues, the Board, in its discretion, may waive such certification from that jurisdiction; however, the applicant must not only be in good standing, but also must be an active member of each jurisdiction upon which the applicant relies for admission by comity.
- (c) The applicant shall possess the qualifications of character and general fitness requisite for an attorney and counselorat-law and satisfy the requirements of Section .0600 of this Chapter;
- (d) The applicant must satisfy the educational requirements of Section .0700 of this Chapter.
- (e) The applicant may not have failed the written North Carolina Bar Examination within five years prior to the date of filing the application;
- (f) The applicant must have passed the Multistate Professional Responsibility Examination; and
- (g) The applicant must pay to the Board the application fee provided in section (3)(a) or (3)(b).
- (2) <u>Definitions.</u> <u>Military Spouse Comity</u> Applicant Defined. A Military Spouse Comity Applicant is any person who is
 - (a) Servicemember, A servicemember, as defined in 50 U.S.C. § 3911(1), or a member of the North Carolina National Guard. An attorney at law duly admitted to practice in another state or territory of the United States, or the District of Columbia; and
 - (b) Military order. Official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to a servicemember's current or future military service. In the case of a member of the North Carolina National Guard, this term includes an order from the

- Governor of North Carolina pursuant to Chapter 127A of the General Statutes. Identified by the Department of Defense (or, for the Coast Guard when it is not operating as a service in the Navy, by the Department of Homeland Security) as the spouse of a service member of the United States Uniformed Services; and (e) Is residing or intends within the next six months to be residing, in North Carolina due to the service member's military orders for a permanent change of station to the State of North arolina.
- (3) Application Fee. Procedure. In addition to the documentation required by paragraph (1) of Rule .0502, a Military Spouse Comity Applicant must file with the Board the following:
 - (a) For servicemembers, the application fee is one thousand five hundred dollars (\$1,500). A copy of the service member's military orders reflecting a permanent change of station to a military installation in North Carolina: and
 - (b) For spouses of servicemembers, there is no application fee. A military identification card which lists the Military Spouse Applicant as the spouse of the service member.
- (4) Fee. No application fee will be required for Military Spouse Comity Applicants.

Rule .0504, Requirements for Transfer Applicants

As a prerequisite to being licensed by the Board to practice law in the State of North Carolina, a transfer applicant shall:

- (1) possess the qualifications of character and general fitness requisite for an attorney and counselor-at-law, and be of good moral character and entitled to the high regard and confidence of the public and have satisfied the requirements of Section .0600 of this Chapter;
- (2) possess the legal educational qualifications as prescribed in Section .0700 of this Chapter;
 - (3) be at least 18 years of age;
- (4) have filed with the Executive Director, upon such forms as may be supplied by the Board, a typed application in duplicate, containing the same information and documentation required of general applicants under Rule .0402(a);
- (5) have paid with the application an application fee of one thousand five hundred

dollars (\$1,500), if the applicant is licensed in any other jurisdiction, or one thousand two hundred seventy-five dollars (\$1,275) if the applicant is not licensed in any other jurisdiction, no part of which may be refunded to an applicant whose application is denied or to an applicant who withdraws, unless the withdrawing applicant filed with the Board a written request to withdraw, in which event, the Board in its discretion may refund no more than one-half of the fee to the withdrawing applicant. However, when an application for admission by transfer is received from an applicant who, in the opinion of the Executive Director, after consultation with the Board Chair, is not eligible for consideration under the Rules, the applicant shall be so advised by written notice. Upon receipt of such notice, the applicant may elect in writing to withdraw the application, and provided the written election is received by the Board within 20 days from the date of the Board's written notice to the applicant, receive a refund of all fees paid.

(6) have, within the three-year period preceding the filing date of the application, taken the Uniform Bar Examination and achieved a scaled score on such exam that is equal to or greater than the passing score established by the Board for the UBE as of the administration of the exam immediately preceding the filing date;. For purposes of this rule: "passing score" means the minimum passing score established by the Board for the UBE as of the administration date of the exam immediately preceding the application filing date; and, the three-year period preceding the filing date begins to run on the date the applicant sat for the Uniform Bar Examination.

- (7) have passed the Multistate Professional Responsibility Examination.
- (8) if the applicant is or has been a licensed attorney, be in good standing in each state, territory of the United Sates, or the District of Columbia, in which the applicant is or has been licensed to practice law and not under any charges of misconduct while the application is pending before the Board.
 - (a) For purposes of this rule, an applicant is "in good standing" in a jurisdiction if:
 - (i) the applicant is an active member of the bar of the jurisdiction and the jurisdiction issues a certificate attesting to the applicant's good standing therein; or
 - (ii) the applicant was formerly a mem-

- ber of the jurisdiction, and the jurisdiction certifies the applicant was in good standing at the time that the applicant ceased to be a member; and
- (b) if the jurisdiction in which the applicant is inactive or was formerly a member will not certify the applicant's good standing solely because of the non-payment of dues, the Board, in its discretion, may waive such certification from that jurisdiction.
- (9) have successfully completed the North Carolina State-Specific Component covering Decedents' Estates and Trusts, outlined below, within 12 months after the filing of the application for admission to practice law in North Carolina by UBE Transfer. The time limits are tolled for a period not exceeding 24 months for any applicant who is a servicemember as defined in the Servicemembers Civil Relief Act, 50 U.S.C. Appx § 511, while engaged in active service as defined in 10 U.S.C. § 101, and who provides a letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents the servicemember from completing the State-Specific Component within the 12month period after the filing of the application for admission to practice law in North Carolina by UBE Transfer.
 - (a) Composition of the North Carolina State-Specific Component. The North Carolina State-Specific Component shall consist of a multiple-choice examination covering the subject area of Decedents' Estates and Trusts.
 - (b) Administration of the North Carolina State-Specific Component. The North Carolina State-Specific Component shall be offered four times per year: February, May, July, and November.
 - (c) Deadlines and Fees. The deadlines and fees shall be prescribed below.
 - (i) Deadlines for February and July administrations. The North Carolina State-Specific Component shall be administered with the February and July bar examinations. Applicants must apply by the deadlines provided in Rule .0403. There shall be no additional fee for the North Carolina State-Specific Component when taken at the February or July administration of the bar examination.

(ii) Deadline for May administration. Applications for the May administration of the North Carolina State-Specific Component shall be filed with the Executive Director at the offices of the Board on or before the third Tuesday in April. The fee for the May administration of the North Carolina State-Specific Component shall be one hundred dollars (\$100.00).

(iii) Deadline for November administration. Applications for the November administration of the North Carolina State-Specific Component shall be filed with the Executive Director at the offices of the Board on or before the third Tuesday in October. The fee for the November administration of the North Carolina State-Specific Component shall be one hundred dollars (\$100.00).

Rule .0901, Written Bar Examination
Two written bar examinations shall be held each year for general applicants.

Rule .0902, Dates

The written bar examinations shall be held in North Carolina in the months of February and July on the dates prescribed by the National Conference of Bar Examiners.

Rule .0903, Subject Matter

The examination shall be the Uniform Bar Examination (UBE) prepared by the National Conference of Bar Examiners and comprising six Multistate Essay Examination (MEE)—questions, two Multistate Performance Test (MPT) items, and the Multistate—Bar Examination (MBE). Applicants may be tested on any subject matter listed by the National Conference of Bar Examiners as areas of law to be tested on the UBE. Questions will be unlabeled and not

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necessarily limited to one subject matter.

Rule .0904, Grading and Scoring

Grading of the bar examination of the MEE and MPT answers shall be strictly anonymous. The MEE and MPT raw scores shall be combined and converted to the MBE scale to calculate written scaled scores according to the method used by the National Conference of Bar Examiners for jurisdictions that administer the UBE. The Board shall grade the UBE in accordance with grading procedures and standards set by the National Conference of Bar Examiners.

Rule .1001, Review

After release of the results of the written bar examination, a general applicant who has failed the written examination may, in the Board's offices, review the MEE questions and MPT items on the written examination and the applicant's answers thereto, along with selected answers by other applicants which the Board determines may be useful

to unsuccessful applicants the applicant's examination in accordance with the policies and procedures set by the National Conference of Bar Examiners. The Board will also furnish an unsuccessful applicant hard copies of any or all of these materials, upon payment of the reasonable cost of such copies, as determined by the Board. No copies of the MEE or MPT grading materials prepared by the National Conference of Bar Examiners will be shown or provided to the applicant unless authorized by the National Conference of Bar Examiners.

Rule .1002, Multistate Bar Examination Reserved for Future Use

There is no provision for review of the Multistate Bar Examination. Applicants may, however, request the National Conference of Bar Examiners to hand score their MBE answers.

Rule .1003, Release of Scores

(a) The Board will not release UBE bar

<u>examination</u> scores to the public.

- (b) The Board will inform each applicant in writing of the applicant's scaled score on the UBE bar examination. Scores will be shared with the applicant's law school only with the applicant's consent.
- (c) Upon written request of an unsuecessful applicant, the Board will furnish the following information about the applicant's score to the applicant: the applicant's raw scores on the MEE questions and MPT items; the applicant's scaled combined MEE and MPT score; the applicant's scaled MBE score; and the applicant's scaled UBE score.
- (d) Upon written request of an applicant, the Board will furnish the Multistate Bar Examination score of said applicant to another jurisdiction's board of bar examiners or like organization that administers the admission of attorneys for that jurisdiction.

Rule .1005, Re-Grading Regrading

Examination answers eannot will not be regraded. once UBE scores have been released. ■

ETHICS COMMITTEE UPDATE

Council Adopts New Opinion; Committee Returns Proposed Opinion on Fee Changes During Representation to Subcommittee

Council Actions

At its meeting on July 25, 2025, the State Bar Council adopted the ethics opinion summarized below:

2025 Formal Ethics Opinion 2

Negotiating Licensure Reporting Capability During Mediation

Opinion affirms prohibition on lawyers participating in a settlement agreement that includes a limitation on a party's or counsel's ability to report misconduct to the North Carolina State Bar and rules a lawyer serving as a mediator may not assist with or participate in a mediated settlement agreement that includes such a term.

Ethics Committee Actions

At its meeting on July 24, 2025, the Ethics Committee considered a total of five inquiries, including the adopted opinion referenced above. Four inquiries were sent or returned to subcommittee for further study, including an inquiry exploring conflicts of interest for public defender offices, an inquiry

addressing whether the Rules of Professional Conduct permit a real property lawyer to refer a client to a law partner's title insurance business, and a new inquiry exploring the inclusion of non-disparagement clauses in initial fee agreements and fee dispute settlement agreements. Additionally, based on comments received during publication over the prior quarter, the committee sent proposed 2025 FEO 3 (Client Consent to Annual Rate Increase) back to subcommittee for further study.

Allen Nominated as Vice-President



Charlotte attorney David N.
Allen has been selected by the State
Bar's Nominating
Committee to
stand for election
to the office of
vice-president of
the North Carolina State Bar.

Allen is a double graduate of the University of North Carolina, earning his

undergraduate degree in 1977 and his JD in 1980. He is currently a partner at Brooks Pierce, where he practices litigation on behalf of a broad range of clients. He has been trying cases for more than 30 years, with nearly 100 juries empaneled during that time.

A former president of the North Carolina Association of Defense Attorneys (NCADA), Allen is a frequent lecturer on both substantive and technical aspects of trial practice. He has presented for numerous continuing legal education programs, including recent appearances for both the

NCADA and the North Carolina Advocates for Justice. In addition to serving on the State Bar Council, Allen is a member of the Chief Justice's Commission on Professionalism and remains active with both the NCADA and the International Association of Defense Counsel.

Allen's election will take place at the State Bar's annual meeting in October 2025. At that time, Raleigh attorney Katherine Frye will assume the office of president, and Winston-Salem attorney Kevin G. Williams will stand for election to president-elect.

Legal Ethics (cont.)

Committee, I was humbled and inspired by the stories of lawyers who have made extraordinary contributions—not only to the legal profession but to society as a whole. Again and again, I was reminded that while misconduct might grab headlines, it's the steady, ethical work of everyday lawyers that truly defines this profession. Their dedication to justice, mentorship, and community service sets a powerful example for us all.

In recent months, aside from answering ethics inquiries, I've spent time thinkingand writing—about how technology is changing our work. This article, in fact, came together with the help of AI. I provided the stories, ideas, and edits-but the structure and phrasing were refined with the help of this evolving tool. That might seem surprising, but it's a reflection of what's already happening in our profession. AI is reshaping how lawyers write, research, and communicate. If you haven't yet, I encourage you to read Brian Oten's Artificial Intelligence, Real Practice—a thoughtful look at how these tools are transforming legal work and what adaptation might look like.

Working at the State Bar has been a privilege. I've learned a lot about the Rules of Professional Conduct—and even more about the real-world challenges lawyers face, and the deep resolve to meet them with integrity.

I'm stepping away, but I have every confidence that the important work will continue—and adapt—with the times. I'm especially grateful to Nichole McLaughlin, Brian Oten, and Alice Mine. Their wisdom, dedication, and steady professionalism have been a source of strength and clarity, helping to navigate even the most complex and sensitive ethics issues. Working alongside them has been a privilege, and their thoughtful guidance has made a lasting impact on me personally.

And please, keep calling the Ethics Hotline. Your questions matter. They shape guidance, highlight gray areas, and strengthen our shared understanding of what it means to practice with integrity.

Thank you for letting me be part of your questions—and, I hope, part of your answers.

If you call and don't reach me anymore, please leave a message—for someone else who's ready and eager to help. ■

NC IOLTA Update (cont.)

work she needed to get the right health care. The managed care organization's nurse was supposed to fill out forms so Wanda could access Food Rx, a program that connects people with chronic conditions to healthy food. They didn't.

After months of advocacy, the Disability Rights NC team was able to layer several programs, including the Transition to Community Living program and a Medicaid waiver program for disabled adults called CAP/DA, to get Wanda the holistic support she's entitled to.

Now, Wanda is finally living in her own apartment and she has access to her bank account again. She is continuing to work closely with Kirby to access the support she needs to live comfortably in her own home.

When asked what she wants people to know about her story, Wanda shared that this is only the tip of the iceberg, as these institutions are taking advantage of the vulnerable and elderly nationwide. She wants to build awareness about corrupt facilities, and for attorneys and advocates to understand that a fight for disability rights is a worthwhile one. •

Upcoming Appointments

Anyone interested in being appointed to serve on one of the State Bar's boards, commissions, or committees should visit bit.ly/NCSBInterestForm to complete a "Boards and Commissions Interest Form." The deadline for completion of the interest form is October 1, 2025. Your information will be included in the agenda materials for the quarterly meeting of the council in October 2025.

The council will make the following appointments at its October quarterly business meeting:

Board of Continuing Legal Education (three appointments; three-year terms)— There are three appointments to be made. Robert A. Ponton Jr., Addie M. Harris Rawls, and Syrena N. Williams are eligible for reappointment. The rules governing the Board of Continuing Legal Education require the council to appoint the board's chair and vice-chair annually.

The Board of Continuing Legal Education (CLE) is a nine-member board composed of North Carolina licensed attorneys. The board establishes policy related to the execution of the CLE program's mission and is responsible for oversight of the program.

Board of Law Examiners (four appointments; three-year terms)—There are four appointments to be made. Athena Fox Brooks, Shelley Blake Curran, Sherri Wilson Elliott, and Michael Greene are eligible for

reappointment.

The 11 members of the North Carolina Board of Law Examiners are appointed by the State Bar Council. The board examines applicants and establishes rules and regulations for admission to the North Carolina State Bar. The board's objective is to ensure that all persons seeking admission to practice law in North Carolina possess the requisite competency and qualifications of character and fitness. Board members review bar examination questions; conduct character and fitness and comity hearings; supervise the bar examinations; and grade the examinations. Additionally, the board engages in periodic review of methods used in the examination and grading process. A board member donates an average of 35-45 days to service each year.

Client Security Fund Board of Trustees (one appointment; five-year term)—There is one appointment to be made. Erika D. Jones, the current chair, is not eligible for reappointment. The rules governing the Client Security Fund require the council to appoint the board's chair and vice-chair annually.

The Client Security Fund was established by the North Carolina Supreme Court in 1984 to reimburse clients who have suffered financial loss as the result of dishonest conduct of lawyers engaged in the private practice of law in North Carolina. The fund is administered by a board composed of four North Carolina lawyers and one public member. The trustees are appointed by the North Carolina State Bar Council, and each serves a five-year term.

Board of Paralegal Certification (three appointments; three-year terms)—There are three appointments to be made. Carrie J. Marshall (paralegal member) and Precious Vines-Harris (lawyer member) are eligible for reappointment. Benita G. Powell, the current chair, is not eligible for reappointment. The rules governing the Board of Paralegal Certification require the council to appoint the board's chair and vice-chair annually.

The Board of Paralegal Certification is a nine-member board composed of five North Carolina licensed attorneys (one of whom must be a paralegal educator) and four North Carolina certified paralegals. The board establishes policy related to the execution of the paralegal certification program and is responsible for the oversight of the operation of the program subject to the statutes governing the practice of law, the authority of the council, and the rules of the board. The paralegal certification program assists in the delivery of competent representation 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. The board usually meets four times a year.

John B. McMillan Distinguished Service Award

Cecil Harrison

Cecil Harrison was presented with the John B. McMillan Distinguished Service Award on May 12, 2025, at the North Carolina State Bar headquarters in Raleigh. State Bar Vice-President Kevin Williams made the presentation in recognition of Mr. Harrison's outstanding contributions to the legal profession, his steadfast commitment to ethical practice, and his record of public and community service.

A native of New Bern, Mr. Harrison grad-

uated from New Bern High School before earning a bachelor's degree from the University of North Carolina at Chapel Hill in 1969. After a year of teaching, he returned to Chapel Hill to attend the UNC School of Law, receiving his JD in 1973. He then clerked for

Judge Fred Hedrick of the North Carolina Court of Appeals.

In 1974, Mr. Harrison joined what was then Poyner, Geraghty, Hartsfield & Townsend. He has played a key role in the leadership of the firm throughout his career, helping to guide its transition into what is now Poyner Spruill LLP. As managing partner and a trusted advisor, Mr. Harrison helped shape the firm's culture of excellence, integrity, and service.

Over the course of his five-decade career, Mr. Harrison has built a reputation as one of North Carolina's foremost employment attorneys. His practice has included matters arising under Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Family and Medical Leave Act, and the North Carolina Wage and Hour Act. He has successfully represented clients before federal and state courts and administrative bodies, including the Equal Employment Opportunity Commission, the US and North Carolina Departments of Labor, and the Employment Security Commission.

In addition to his litigation and appellate work, Mr. Harrison is a trusted advisor on a wide array of employment law issues, such as workplace investigations, reductions in force, disciplinary matters, and compliance strategy. Known for his integrity, judgment, and professionalism, he is frequently consulted by attorneys both within and outside the firm.

Mr. Harrison has long demonstrated a deep and consistent commitment to community service. He has represented the Triangle YMCA for many years and has been actively involved with Edenton Street United Methodist Church in Raleigh, where he has served in numerous leadership roles, chaired and participated in multiple committees, and led or supported various community outreach initiatives. He has also served on the board of the Tammy Lynn Foundation and the Board of Visitors for the UNC Lineberger Comprehensive Cancer Center.

Mr. Harrison and his wife, Amelia, are faithful supporters of a need-based scholarship at the UNC School of Law that was endowed in their honor to help ensure access to legal

education for future generations of Carolina lawyers.

His professional achievements have earned widespread recognition. He has been named Raleigh's "Lawyer of the Year" for Labor and Employment – Management by The Best Lawyers in America, ranked among the Top 100 Lawyers in North Carolina by Super Lawyers, and consistently listed in Business North Carolina's Legal Elite.

Cecil Harrison exemplifies the highest ideals of the legal profession. Through his leadership, mentorship, and service, he has made a lasting impact on the legal and broader community in North Carolina.

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.

Client Security Fund Reimburses Victims

At its July 24, 2025, meeting, the North Carolina State Bar Client Security Fund Board of Trustees approved payments of \$11,533 to four applicants who suffered financial losses due to the misconduct of North Carolina lawyers.

The payments authorized were:

1. An award of \$375 to a former client of Arthur M. Blue of Carthage. The board determined that the client retained Blue to handle criminal matters. Blue charged a \$2,000 flat fee and accepted partial payment from the client. Blue failed to provide any meaningful legal services for the fee paid. Blue was transferred to disability inactive status by consent order on April 19, 2023, and subsequently died on May 31, 2023. The board previously reimbursed 31 other Blue clients a total of \$41,648.

2. An award of \$2,658 to a former client of Tiyesha N. DeCosta of Charlotte. The board determined that the client retained

DeCosta to represent him. The client paid DeCosta's quoted \$3,000 retainer. DeCosta refunded \$342 of the fee but failed to provide any meaningful legal services for the total fee paid.

3. An award of \$8,000 to former clients of Paris A. Peppers of Louisburg. The board determined that the clients retained Peppers for representation in a criminal case. The clients paid \$8,000 toward the quoted \$15,000 flat fee. Peppers agreed to the representation when she knew or should have known that she was unlikely to be able to complete the representation due to her disability and failed to provide any meaningful legal services for the fee paid. Peppers transferred to disability inactive status on March 27, 2023 and consented to the continuation of disability inactive status by order entered on November 28, 2023.

4. An award of \$500 to a former client of Tiana D. Young Morris of Charlotte. The

board determined that the client retained Young Morris to handle traffic charges. The client paid the \$500 fee charged. Other than obtaining continuances, Young Morris failed to complete the representation or provide any meaningful legal services for the fee paid. Young Morris was administratively suspended on May 1, 2023.

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 \$1,219.62 this past quarter.

2025 Second Quarter Random Audits

Audits for the second quarter of 2025 were conducted in Bertie, Buncombe, Carteret, Craven, Cumberland, Davidson, Durham, Forsyth, Franklin, Henderson, Hoke, Mecklenburg, Pitt, and Wake Counties.

One audit each was conducted in Bertie, Davidson, Franklin, Hoke, and Pitt Counties; two audits each were conducted in Carteret, Craven, Cumberland, and Henderson Counties; three audits were conducted in Buncombe County; four audits each were conducted in Durham and Forsyth Counties; ten audits were conducted in Mecklenburg County; and 12 audits were conducted in Wake County.

Following are the results of the audits.

1. 38% failed to take the required one-hour

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trust account CLE course.

- 2. 36% failed to provide a copy of the Bank Directive regarding checks presented against insufficient funds.
- 3. 32% failed to complete quarterly transaction reviews.
- 4. 19% failed to maintain images of cleared checks or maintain them in the required formar
 - 5. 17% failed to:
 - sign, date, and/or maintain reconciliation reports;
 - review bank statements and cancelled checks each month.
 - 6. up to 10% failed to:
 - prevent over-disbursing funds from the trust account resulting in negative client balances:
 - failed to identify the client and source of funds, when the source was not the client, on the original deposit slip;
 - properly remove signature authority from employee(s) responsible for performing monthly or quarterly reconciliations;
 - properly deposit funds received with a mix of trust and non-trust funds into the trust account:
 - identify the client from whose balance the funds were drawn on the face of each check;
 - escheat unidentified/abandoned funds as required by GS 116B-53.
 - 7. Areas of consistent rule compliance:
 - properly completed monthly reconciliations:
 - properly completed quarterly reconciliations;
 - properly maintained a ledger for each person or entity from whom or for whom trust money was received;
 - properly prevented bank service fees being paid with entrusted funds;
 - properly maintained a ledger of lawyer's funds used to offset bank service fees;
 - properly recorded the bank date of deposit on the client's ledger;
 - promptly removed earned fees or cost reimbursements:
 - promptly remitted to clients' funds in

- possession of the lawyer to which clients were entitled;
- properly signed trust account checks (no signature stamp or electronic signature used):
- properly maintained records that are retained only in electronic format;
- properly identified client on confirmations of wire/electronic/online transfers of funds;
- provided written accountings to clients at the end of representation or at least annually if funds were held for more than 12 months;
- properly used business-size checks containing the Auxiliary On-Us field.

Based on the geographic plan for 2025, audits for the third quarter will be conducted in Alamance, Alexander, Buncombe, Catawba, Cherokee, Durham, Forsyth, Guilford, Iredell, Mecklenburg, New Hanover, Orange, Rockingham, Wake and Wilkes Counties.

Disciplinary Actions (cont.)

Transfers to Disability Inactive Status

Duane S. Miller of Concord, Thomas E. Barwick of Clayton, and Eric R. Inhaber of Charlotte were transferred to disability inactive status by consent orders entered by the chair of the Grievance Committee.

Authorized Practice Committee Actions

Tigress Sydney Acute McDaniel was permanently enjoined from the unauthorized practice of law.

Matthew L. Boney, a federal practitioner with out-of-state licensure, received a letter of caution for failing to clarify his jurisdictional limitations on public communication.

Jhonatan Copete received a letter of caution for advertising legal advice and legal document preparation in immigration matters.

Nadine Coates, a paralegal, received a letter of caution for holding herself out as competent and qualified to provide legal services directly to consumers. ■



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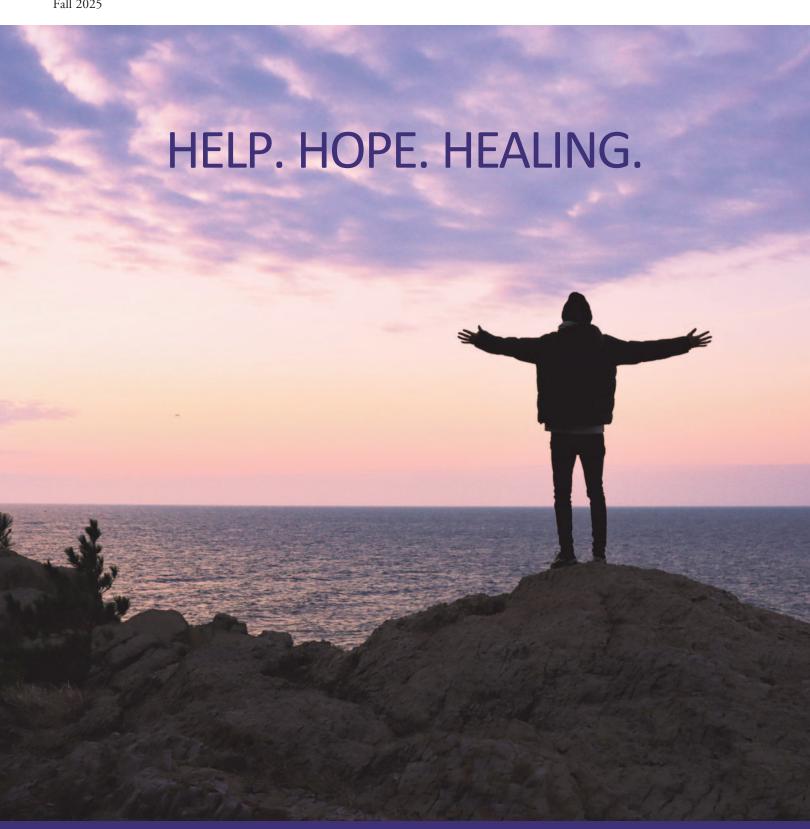
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Fall 2025



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