



**The North Carolina State Bar**  
**Office of Counsel**

**2017**  
**Annual**  
**Report**

## ***Office of Counsel Staff***

### **LAWYERS**

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Katherine E. Jean, Counsel	Ext. 276
Margaret T. Cloutier, Sr. Deputy Counsel	Ext. 239
A. Root Edmonson, Deputy Counsel	Ext. 229
Fern Gunn Simeon, Deputy Counsel	Ext. 258
David R. Johnson, Deputy Counsel	Ext. 230
Jennifer A. Porter, Deputy Counsel	Ext. 262
Carmen H. Bannon, Deputy Counsel	Ext. 283
Brian P.D. Oten, Deputy Counsel	Ext. 226
Leonor B. Hodge, Deputy Counsel	Ext. 299
Barry M. McNeill, Deputy Counsel	Ext. 298
Mary D. Winstead, Deputy Counsel	Ext. 204
G. Patrick Murphy, Deputy Counsel	Ext. 206
Susannah B. Cox, Deputy Counsel	Ext. 235
Joshua T. Walthall, Deputy Counsel	Ext. 225
Maria J. Brown, Deputy Counsel	Ext. 213
Regina Jay Wheeler, Deputy Counsel	Ext. 293
Peter G. Bolac, Trust Account Compliance Counsel & Legislative Liaison	Ext. 282

### **ADMINISTRATIVE STAFF**

Heather Pattle, Administrator	Ext. 227
Becky Carroll, Paralegal	Ext. 234
Wondella Payne, Paralegal	Ext. 296
Melanie Kincaid, Paralegal	Ext. 233
Jennifer Slattery, Paralegal	Ext. 205
Brittany Wilson, Paralegal	Ext. 280
Jeffrey Lundgen, Paralegal	Ext. 120
Lori Brooks, Administrative Assistant	Ext. 232
Joan Renken, Administrative Assistant	Ext. 295

### **INVESTIGATORS**

Joe Commisso, Director of Investigations	Ext. 200
Anne Parkin, Investigator (Random Auditor)	Ext. 259
Carolyn Page, Investigator	Ext. 285
Fred Patton, Investigator	Ext. 266
Krista Carlson, Investigator	Ext. 224
Marty Coolidge, Investigator	Ext. 294
Doug Miller, Investigator	Ext. 263
Paul Sugrue, Investigator	Ext. 284
Randy Ross, Investigator (Client Security Fund)	Ext. 201
Rick Grayson, Investigator	Ext. 274
Wayne Truax, Investigator	Ext. 292

### **INVESTIGATIONS ADMINISTRATIVE STAFF**

Dawn Patton, Administrative Assistant	Ext. 278
Chris Woods, Investigative Assistant	Ext. 222
Sonja Puryear, Investigative Clerk	Ext. 203

### **ATTORNEY/CLIENT ASSISTANCE PROGRAM STAFF**

Lee A. Ramos, Director	Ext. 251
Krista Bennett, Facilitator	Ext. 228
Sandra Saxton, Public Liaison	Ext. 264
Courtney Pope, Public Liaison	Ext. 260
Diane Melching, Administrative Assistant	Ext. 287

## **OFFICE OF COUNSEL**

The Office of Counsel is the legal department of the North Carolina State Bar. The office consists of disciplinary staff, authorized practice staff, the investigations department, the Attorney/Client Assistance Program (ACAP) staff, and trust account compliance counsel. The disciplinary staff reports upon all grievance files opened by the State Bar involving allegations of professional misconduct by North Carolina lawyers. It investigates and tries claims of professional misconduct and disability. The office assists the Authorized Practice Committee by investigating and resolving complaints concerning the unauthorized practice of law, including representing the State Bar in lawsuits to obtain injunctions prohibiting the unauthorized practice of law. It represents the State Bar in federal and state trial and appellate courts. The office provides legal counsel to the Client Security Fund Board of Directors and pursues subrogation actions for recovery of funds paid by the CSF. It coordinates the appointment of trustees to wind down the practices of deceased, disabled, and disbarred lawyers. The office also provides legal opinions on issues of interest to all departments, committees, and boards of the State Bar.

The ACAP staff helps members of the public resolve problems with lawyers other than matters involving potentially serious violations of the Rules of Professional Conduct. The ACAP staff also provides information about the grievance process, the courts and the justice system, and helps resolve fee disputes between lawyers and their clients.

The Office of Counsel includes sixteen lawyers, one administrator, six paralegals, six administrative assistants, ten investigators, one random auditor, one trust account compliance counsel, the ACAP director, who is also a fee dispute resolution facilitator, a second fee dispute resolution facilitator, and two public liaisons.

The Office of Counsel is located in the State Bar Building, 217 E. Edenton St., Raleigh, N.C. 27601. It is open from 9 a.m. until 5 p.m. on weekdays and may be reached at 919-828-4620. Each staff person's telephone extension appears above.

# 2017 ANNUAL REPORT OFFICE OF COUNSEL THE NORTH CAROLINA STATE BAR

## Attorney Client Assistance Program

The Attorney Client Assistance Program (“ACAP”) is comprised of five staff members: two public liaisons, two fee dispute resolution facilitators, and one administrative assistant. During 2017 the staff responded to 12,420 calls from clients and other members of the general public. The ACAP staff also responded to 2,024 letters from inmates and 2,643 email messages from clients and lawyers. As a result of calls and letters, the ACAP staff contacted 3,223 lawyers in an attempt to resolve reported concerns.

The State Bar opened 640 fee dispute resolution files during 2017. Of those files, 142 files were assigned to the five judicial district fee dispute resolution committees. The remaining 498 were assigned to in-house facilitators.

## Authorized Practice Committee

The Authorized Practice Committee opened 107 investigation files in 2017, compared to 87 files opened in 2016, 108 files opened in 2015, and 100 files in 2014. The committee resolved 90 files during 2017, compared to resolving 97 files during 2016, 110 files during 2015 and 105 files during 2014.

The committee also registers prepaid legal service plans. Plans must file initial registrations, amended registrations, and annual renewals. The committee does not approve plans, but does review registrations for compliance with the definition of a prepaid legal service plan. During 2017, eight proposed plans were submitted for registration; three were registered, four were denied, and the office is reviewing the eighth. Eighteen existing plans submitted amendments this year. One plan’s registration was revoked in 2017 for failing to comply with renewal requirements.

In May 2013, the office filed an action in Wake County Superior Court as a co-plaintiff with the Consumer Protection Division of the North Carolina Department of Justice against **Swift Rock Financial, Inc., d/b/a World Law Debt, a/k/a World Law Group; Orion Processing, LLC, d/b/a World Law Processing; Derin Scott; Bradley Haskins; World Law South, Inc; Global Client Solutions.** The plaintiffs alleged that all of those defendants operate collectively and interchangeably under various names that include the words “World Law.” The plaintiffs allege that they drafted and provided pleadings for debtors to file “*pro se*” and provided those debtors with scripts to use in court. The plaintiffs obtained a temporary restraining order in May 2013 and a preliminary injunction in June 2013 prohibiting all of those defendants “together with their officers, agents, employees, attorneys, and all persons acting in concert with them,” from engaging in the practice of law in North Carolina, as defined in N.C. Gen. Stat. §§ 84-2.1, 84-4, and 84-5, from collecting fees from North Carolina consumers for any debt adjusting or legal services, and from transferring, concealing, spending or disposing of any funds received, directly

or indirectly, from any North Carolina consumer in connection with any such activities. In February 2015, WLS dissolved and Orion filed for bankruptcy under Chapter 11. In August 2015, the Bankruptcy Court converted the Orion bankruptcy to Chapter 7 and began liquidation proceedings. Also in August 2015, the federal Consumer Finance Protection Bureau filed a nationwide injunction action against the defendants in federal court in Florida. That Court entered an injunction against all defendants and a receiver for the assets of the defendants. On December 12, 2016, the Court granted the State Bar and the State of North Carolina's motion for summary judgment against Orion. On March 7, 2017, the Court granted Plaintiffs' motion for default judgments against Swift Rock, Haskins, and WLS and issued a permanent injunction against all parties. None of the defendants appealed. The Office of Counsel represented the State Bar.

In July 2016, the office was authorized to seek an injunction against **Thomas D'Arco d/b/a Infinity Legal Group**. D'Arco is a California attorney who the State Bar alleges provided loan modification services to North Carolina residents. The California State Bar has disciplined him for similar activities in other states. On May 17, 2017, the court entered a permanent injunction by consent. The Office of Counsel represented the State Bar.

In July 2017, the Executive Committee authorized the office to file a lawsuit seeking injunctive relief against **Michael Asen** and the **Zimmerman Group**. Asen is a New York attorney who attempts to collect civil penalties from persons accused of shoplifting in North Carolina. The Zimmerman Group offers Asen's services to retailers. The Office of Counsel has prepared the complaint and is negotiating with opposing counsel over a consent injunction to file simultaneously. The Office of Counsel represents the State Bar.

At the October 2017 meeting, the Executive Committee authorized the office to file a lawsuit seeking injunctive relief against a California based company named **Freedom Debt Relief**. Freedom Debt Relief provides debt adjusting services and offers to provide attorneys to assist its customers when sued by creditors. On November 8, 2017, the Consumer Financial Protection Bureau (CFPB) filed a lawsuit in federal court in California seeking injunctive relief concerning the firm's debt adjusting activities. The Office of Counsel is monitoring that lawsuit to determine if will affect the State Bar's action.

The office continues to work closely with the Consumer Protection Division of the North Carolina Attorney General's Office to prevent the unauthorized practice of law in North Carolina, particularly persons and entities that offer legal services in the areas of debt adjusting, loan modification, and preparation of living trusts for senior citizens.

### **Trust Accounting Compliance Program**

Thirteen lawyers currently participate in the Trust Accounting Compliance Program. In 2017, nine lawyers successfully completed the program.

## **Grievance Committee Actions**

During 2017, the State Bar opened 1,305 grievance files, compared with 1,375 files opened in 2016.

Also in 2017, the office reviewed seven direct mail solicitation letters or other advertising. All involved minor violations of advertising ethics rules. One was resolved without opening a grievance file. The office opened grievances against seven lawyers. The office reviewed 11 direct mail solicitation letters in 2016. One was resolved without opening a grievance file and the office opened grievances against ten lawyers.

All grievance files opened by the State Bar are considered and acted upon by one or more members of the Grievance Committee. The committee considered a total of 1,387 grievance files during 2017. Of those, 1,082 were dismissed. Eleven files were dismissed and retained because the respondent lawyers had been disbarred. Ten files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 80 percent of the grievance files considered by the committee. In addition to the grievance files that were dismissed outright in 2017, 21 files were dismissed with letters of caution and 67 were dismissed with letters of warning.

In 2017, the Grievance Committee issued admonitions in 38 files, reprimands in 33 files and censures in six files. Ninety-nine files involving 59 lawyers were referred for trial before the Disciplinary Hearing Commission (DHC). A total of 176 grievance files resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately 13 percent of the grievances considered by the committee in 2017. The committee entered seven orders of reciprocal discipline, referred three lawyers to the Lawyer Assistance Program, and referred seven lawyers to the Trust Accounting Compliance Program.

## **Cases Before the Disciplinary Hearing Commission**

### **1. Discipline and Disability Cases**

The DHC is the independent tribunal which hears lawyer discipline and disability cases. The 20-member commission hears cases involving alleged violations of the Rules of Professional Conduct, cases in which it is alleged that a lawyer is disabled, petitions from disbarred and suspended lawyers seeking reinstatement to the practice of law, and show cause petitions alleging that a lawyer has violated a prior DHC order. Each case is heard by a panel of three consisting of two lawyers and one public member.

During 2017, the Office of Counsel completed a total of 46 disciplinary, reinstatement and show cause cases before the DHC, representing 74 files referred by the Grievance Committee. Of those, 15 were resolved by hearing or default judgment and 31 were resolved by consent. In 2016, the office completed 56 such cases of which 21 were resolved by trial and 35 were resolved by consent.

In 2017, the DHC entered eight orders of disbarment. Three lawyers misappropriated entrusted funds. One lawyer was convicted of failing to file a federal income tax return. He was already serving two active disciplinary suspensions imposed by the DHC in prior cases. One lawyer tried to acquire drugs from a client he was representing on drug-related charges, falsely represented to jail authorities that he represented his girlfriend in order to gain access to her in jail, and was convicted of two counts of contempt of court for failing to appear on behalf of clients. One lawyer did not inform his clients that his law license was administratively suspended, did not withdraw from representation, did not refund unearned fees, provided false status updates to his clients, engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, engaged in the unauthorized practice of law, and did not respond to the Grievance Committee. One lawyer willfully failed to file and pay her personal income taxes and willfully failed to report and to pay over to the IRS funds withheld from her employees' paychecks.

In 2017, the DHC imposed three active suspensions, two suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 16 suspensions entirely stayed upon the lawyer's compliance with various conditions. The office filed show cause petitions against five lawyers. In four cases, the DHC activated the suspension imposed by the order of discipline. In one case, the DHC modified the order of discipline to extend the period of stayed suspension. The DHC censured one lawyer. Three lawyers were transferred to disability inactive status by the DHC. The DHC entered orders of interim suspension against three lawyers while their disciplinary proceedings are pending.

## 2. Petitions for Reinstatement and for Stay

In 2017, the DHC reinstated two suspended lawyers. In the cases of four lawyers who had served portions of their suspensions, the DHC entered orders staying the balance of the suspensions. The DHC denied reinstatement to one disbarred lawyer and to one suspended lawyer.

# **Actions Before the State Bar Council**

## 1. Tenders of Surrender of License

In 2017, three lawyers surrendered their law licenses to the State Bar Council and were disbarred. All three misappropriated entrusted funds. Three lawyers surrendered their law licenses and were disbarred by the Council in 2016.

## 2. Reinstatement Proceedings

In 2017, the Council held a reinstatement hearing for one disbarred lawyer seeking reinstatement. After a hearing, the Council voted to conditionally reinstate the lawyer.

## **Actions Before the Secretary**

The Secretary receives reinstatement petitions from lawyers whose licenses are suspended for disciplinary violations and enters reinstatement orders in uncontested cases. Contested cases are referred to the DHC for trial.

Eight suspended lawyers filed reinstatement petitions with the Secretary in 2016. The Secretary reinstated two lawyers. Six contested petitions were heard by the DHC.

## **Actions Before the State Trial Courts**

### **1. Judicial Disbarments**

In 2017, five lawyers were disbarred by the Wake County Superior Court, one lawyer was disbarred by the Cherokee County Superior Court, and one lawyer was disbarred by the Brunswick County Superior Court. Two lawyers misappropriated entrusted funds. One lawyer engaged in sexual relations with and had sexually inappropriate communications with multiple immigration clients. One lawyer pled guilty and was convicted of three misdemeanor counts of assault on a female. One lawyer entered into a plea agreement acknowledging that he made false statements on a loan application and committed bank fraud in violation of 18 U.S.C § 1344. One lawyer pled guilty to one count each of forgery, uttering and attempted notary fraud. One lawyer pled guilty to one felony count of knowingly possessing one or more firearms while being an unlawful user of a controlled substance.

### **2. Injunction Proceedings**

During 2017, the Office of Counsel obtained injunctions prohibiting 13 lawyers from handling entrusted funds, compared with 17 such injunctions in 2016. The office also obtained an injunction prohibiting one lawyer from practicing law.

### **3. Appointment of Trustees for Law Practices of Missing, Deceased, Disabled and Disbarred Lawyers**

In 2017, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 20 lawyers. Of that number, one lawyer was disbarred by the DHC, three lawyers suffered physical conditions that made them unavailable to clients, four lawyers were disabled, one lawyer was enjoined from practicing law by the court, and 11 lawyers had died. The State Bar filed 22 trustee petitions in 2016.

### **4. Other Discipline and Disability Cases in the State Trial Courts**

**In re: Colleen Janssen (Wake County Superior Court).** The Wake County Superior Court appointed the Office of Counsel to investigate and report to the court upon alleged professional misconduct of former Wake County assistant district attorney Colleen Janssen. The OOC submitted its report under seal on December 9, 2016. The court ordered Janssen to appear and



show cause why the court should not impose professional discipline. After hearing on March 8-10, the State Bar submitted a proposed order of discipline recommending that the court suspend Janssen for five years and permit her to seek a stay of the final three years upon compliance with conditions. The State Bar also recommended that Janssen receive credit toward service of the suspension for time she did not practice law after she resigned her position as assistant district attorney. On March 22, the court entered an order prohibiting Janssen from serving as prosecutor for any federal, state, county or municipal entity and prohibiting Janssen from practicing law in the employment of any federal, state, county, municipal or private entity or police agency providing legal advice or assistance to any law enforcement officers or law enforcement agencies. The court did not impose professional discipline.

One lawyer was suspended by the Wilkes County Superior Court for failing to supervise his employees, enabling them to steal over \$100,000 in entrusted funds, neglecting his practice and failing to file tax returns. He was suspended for five years and will be eligible to apply for a stay of the final three years upon demonstrating compliance with enumerated conditions.

One lawyer was reinstated from disability inactive status by the Haywood County Superior Court.

An interim suspension of one lawyer's license was entered by the Brunswick County Superior Court.

One lawyer was suspended by the Lincoln County Superior Court until further order of the court. The court concluded that he did not comply with a Consent Interim Order and Recovery Program.

## 5. Miscellaneous

As usual, in 2017 the State Bar was a party to numerous actions in the State courts. The OOC represented the State Bar in many of these actions. In five cases, the State Bar is represented by the Attorney General. In three cases, the State Bar is or was represented by private counsel.

At the end of 2017, the office had three pending cases in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

During 2017, the office filed 19 motions in Superior Court for permission to disburse funds in suspended/disbarred lawyers' trust accounts. The office attended 15 hearings on motions to disburse or escheat, obtained 16 orders directing the disbursement of \$177,059.53 of entrusted funds, and closed 55 files that did not require further court motions or orders.

In addition to the Authorized Practice cases described above, the State Bar was a party to the following cases in state trial courts during 2017:

**Capitol Broadcasting Company, Inc. v. Disciplinary Hearing Commission (Wake County Superior Court).** WRAL-TV filed this lawsuit against the DHC on January 12, 2015 challenging the DHC's decision not to allow live streaming of the trial in *North Carolina State Bar v. Mumma* and seeking an award of its expenses in bringing the action. Prior to a hearing on WRAL's motion for temporary restraining order, the parties reached a resolution of the dispute but the case is still pending. The Attorney General represents the DHC.

**Jerry R. Tillett v. NCSB and the North Carolina Judicial Standards Commission (Dare County Superior Court).** Jerry Tillett was the defendant in a pending DHC case. He sought a declaratory judgment that "the statutory framework pursuant to which the State Bar is prosecuting Judge Tillett is constitutionally infirm, that he is being denied due process, equal protection of the law [sic], that the Order of Public Reprimand of the JSC is *res judicata* and/or collateral estoppel, the State Bar lacks jurisdiction, and the State Bar's prosecution violates the Sherman Act." He sought to enjoin the DHC action and sought costs and attorney fees. The case was designated exceptional under General Rule of Practice 2.1 and assigned to Wake County Senior Resident Superior Court Judge Donald W. Stephens. The trial court denied Tillett's motion for a preliminary injunction and indicated that it would retain jurisdiction of the lawsuit until the DHC action is resolved. The Supreme Court granted discretionary review of a jurisdictional issue in the disciplinary case and stayed this lawsuit pending its decision. On December 21, 2016, the Supreme Court issued its decision that the DHC does not have jurisdiction to discipline a sitting judge for conduct engaged in while a judge when the judge has been disciplined by the Judicial Standards Commission. The DHC dismissed the disciplinary case with prejudice. Tillett dismissed this lawsuit without prejudice. Mullins Duncan represented the State Bar.

**Sharon Victoria Wilson-Dye v. N.C. State Bar (N.C. Industrial Commission).**

Apparently, plaintiff's home was sold in foreclosure. She commenced a purported tort claim against the State Bar and the North Carolina Bar Association. She did not allege any act by either defendant. On December 14, 2015, the deputy commissioner entered an order declaring "the undersigned finds as fact and concludes as a matter of law that this claim, and each and every claim made herein, is and are, wholly on its/their face(s), plainly frivolous and abusive nonsense that is unworthy of further comment. In addition, the affidavits and other filings are rife with frivolous nonsensical allegations of intentional conduct and Constitutional violations, which, if they had any merit whatsoever, would deprive the Commission of jurisdiction." The deputy commissioner dismissed the action. The Attorney General represented the State Bar.

**Eugene Boyce v. NC State Bar (Wake County Superior Court).** Boyce alleged that he filed a grievance against Roy Cooper for conduct that allegedly occurred in 2000 when Cooper was a candidate running against Boyce's son to become Attorney General of North Carolina. He sought declaratory judgments that (1) the State Bar has a conflict in handling the grievance because the Attorney General represents the State Bar in various lawsuits and (2) the State Bar is obliged by law to refer the grievance to the courts for investigation and disciplinary action and an award of costs. The trial court dismissed the complaint. The State Bar was represented by Parker Poe Adams and Bernstein. Boyce gave notice of appeal. Information on the appeal is listed under the appeals section of this report.

**James Ronald Peggs v. North Carolina State Bar (Industrial Commission, State Tort Claim Action).** The plaintiff identifies himself as “Trustee and Trustee Board of Grave Stone International Express Trust,” a purported trust formed in an effort to defeat a foreclosure. He alleged that the foreclosure was wrongful because the grantor of the deed of trust conveyed the property to the trust and the trustee cancelled the deed of trust. The plaintiff alleged that the clerk of court and three lawyers for the trustee were agents of the State Bar but alleged no facts that could sustain that claim. The deputy commissioner dismissed the complaint with prejudice on January 12, 2017. Peggs did not appeal. The Attorney General represented the State Bar.

**Valerie Arroyo v. North Carolina State Bar (Office of Administrative Hearings).** Arroyo was the complainant in a grievance. She filed a petition for contested case hearing alleging that the State Bar deprived her of due process by failing to render a decision favorable to her position. The Attorney General represents the State Bar.

**Kareem Abdullah Kirk-Bey v. North Carolina State Bar (Office of Administrative Hearings).** The Grievance Committee dismissed a grievance filed by Kirk-Bey. Kirk-Bey filed a petition for a contested case hearing in the OAH alleging that the Grievance Committee did not take the action she desired. She did not comply with the first and second orders for prehearing statement. The State Bar will move to dismiss the action. The Attorney General represents the State Bar.

**Christopher Harper v. North Carolina State Bar (Industrial Commission State Tort Claim Action).** Harper was disbarred by the DHC in November 2014. He gave notice of appeal but the DHC dismissed the appeal because Harper did not timely file a record. In November 2015, Harper filed a purported state tort claim action against the State Bar. Harper contended the State Bar’s counsel and investigator negligently disbarred him by presenting witnesses, including a State Bar employee, he contends testified falsely. Harper sought “\$1,000,000 for alleged “emotional distress, lost of enjoyment of life, loss of sleep, psychic numbing, loss of interest in vocation, loss of interest in the external world, personal inconvenience, lost of licenses in NC, SC and membership in several federal courts.” The deputy commissioner dismissed the claim. The Full Commission affirmed. Harper did not timely appeal. The Attorney General represented the State Bar.

### **Actions Before the State Appellate Courts**

The office represented the State Bar in nine appellate cases in 2017.

**NCSB v. David Sutton (13 DHC 11).** In November 2014, the DHC suspended Greenville lawyer David Sutton for five years. The DHC found, among other things, that Sutton routinely engaged in disruptive and abusive conduct toward the court, opposing counsel, and clients. The Court of Appeals affirmed on October 18, 2016. Sutton filed a notice of appeal to the North Carolina Supreme Court, contending that the case involves substantial constitutional questions. On March 27, 2017, the Supreme Court granted the State Bar’s motion to dismiss Sutton’s appeal. The Office of Counsel represented the State Bar.

**NCSB v. Jennifer Foster (14 DHC 7).** In September 2016, the DHC suspended Asheville lawyer Jennifer Nicole Foster for two years. The suspension is stayed upon her compliance with numerous conditions. The DHC concluded that Foster engaged in conduct degrading to a tribunal and prejudicial to the administration of justice by using profanity when addressing a magistrate. On December 19, 2017, the Court of Appeals affirmed in a published opinion. The Office of Counsel represented the State Bar.

**NCSB v. Christopher Livingston (15 DHC 15).** On July 14, 2016, the DHC entered an order suspending Livingston for five years. Livingston will be eligible to petition for a stay of the balance after serving two years active. Among other violations, the DHC found that Livingston engaged in conduct prejudicial to the administration of justice by filing frivolous lawsuits against opposing counsel. On December 19, 2017, the Court of Appeals affirmed in a published opinion. The Office of Counsel represented the State Bar.

**NCSB v. Clifton Gray (15 DHC 38).** In September 2016, the DHC suspended Raleigh lawyer Clifton J. Gray, III for five years. He will be eligible to petition for a stay of the last year upon demonstrating compliance with numerous conditions. The DHC found that Gray disrupted court proceedings, was held in contempt of court, and was convicted of brandishing a gun at members of the public on a roadway. He gave notice of appeal in October and December 2016 but did not perfect either appeal. On August 10, 2017, the DHC granted the State Bar's motion to dismiss the appeal. The Office of Counsel represented the State Bar.

**NCSB v. Dawn Ely (16 DHC 1).** In August 2016, the DHC suspended Dawn Ely for five years because she offered to provide legal services while her license was administratively suspended. After she serves two years of the suspension, she will be eligible to petition for a stay of the balance upon demonstrating compliance with numerous conditions. Oral argument was held at the UNC School of Law on October 17, 2017. The Office of Counsel represents the State Bar.

**Robert N. Weckworth, Jr. – 16 DHC 22**

In October 2017, the DHC censured Greensboro attorney Robert Weckworth. The DHC concluded that Weckworth communicated with a represented adverse party and had improper *ex parte* communications with a judge. Weckworth gave notice of appeal on November 17, 2017. The Office of Counsel represents the State Bar.

**Scott S. Dorman (16 DHC 26).** In September 2017, the DHC disbarred Dorman of Las Vegas, Nevada. The DHC concluded that Dorman committed a criminal act, embezzlement, that reflects adversely on his honesty, trustworthiness or fitness, engaged in conduct involving dishonesty, deceit, or misrepresentation, did not deposit entrusted funds into a trust account, engaged in conduct prejudicial to the administration of justice, neglected and did not communicate with clients, did not respond to the Grievance Committee, and gave legal advice to an unrepresented opposing party. He gave notice of appeal on October 16, 2017. The Office of Counsel represents the State Bar.

**NCSB v. Jerry Braswell (16 DHC 37).** In August 2017, the DHC suspended Goldsboro lawyer Jerry Braswell for five years. The DHC concluded that Braswell engaged in a sex act with a client during the representation and terminated representation of another client without permission of the court after making an appearance. Braswell gave notice of appeal. The Court of Appeals denied Braswell's petition for a writ of supersedeas. On September 13, 2017, Braswell withdrew his appeal. The Office of Counsel represented the State Bar.

**Eugene Boyce v. NC State Bar (Wake County Superior Court).** Boyce alleged that he filed a grievance against Roy Cooper for conduct that allegedly occurred in 2000 when Cooper was a candidate running against Boyce's son to become Attorney General of North Carolina. He sought declaratory judgments that (1) the State Bar has a conflict in handling the grievance because the Attorney General represents the State Bar in various lawsuits and (2) the State Bar is obliged by law to refer the grievance to the courts for investigation and disciplinary action and an award of costs. The court dismissed the complaint. Boyce gave notice of appeal. Oral argument was held on February 7, 2017. The Office of Counsel represents the State Bar on appeal.

### **Actions Before the Federal Courts**

**Capital Associated Industries, Inc. v. Roy Cooper in his capacity as Attorney General of the State of North Carolina; Nancy Lorrin Freeman, in her official capacity as District Attorney for the 10<sup>th</sup> Prosecutorial District of the State of North Carolina; and J. Douglas Henderson, in his official capacity as District Attorney for the 18<sup>th</sup> Prosecutorial District of the State of North Carolina (US District Court, MDNC).** CAI is a trade association. Its members are small and medium-sized businesses. CAI assist its members with personnel management issues. CAI wants to hire lawyers to provide legal advice and legal services to its members. The State Bar's Ethics Committee issued an ethics advisory that doing so would violate North Carolina's statutory prohibition against the unauthorized practice of law. CAI brought this lawsuit seeking a declaration that N.C. Gen. Stat. §§ 84-4 and 84-5 violate the United States and North Carolina constitutions and seeking an injunction prohibiting the original defendants from enforcing the statutes against it. CAI does not seek an award of damages but does seek an award of attorney fees, "disbursements," and costs. The court allowed the State Bar to intervene in the lawsuit. The court denied the original defendants' motions to dismiss and denied CAI's motion for preliminary injunction. The case was scheduled for trial on October 2, 2017. On September 19, the court granted the State Bar's motion for summary judgment on all claims and dismissed the action. The court concluded that CAI has no constitutional or other right to engage in the practice of law or provide legal services to its members and that the North Carolina statutes prohibiting the unauthorized practice of law are constitutional, both facially and as applied. The court also concluded that the statutes do not violate the anti-monopoly clause of the North Carolina Constitution. CAI appealed the decision to the Fourth Circuit. CAI filed its appellant's brief on December 11, 2017. The State Bar's brief is due February 7, 2018. Van Laningham Duncan represents the State Bar.

**Loushanda Myers v. Krista Benett, Fern Gunn Simeon, John Silverstein and unnamed “unknown agents of the North Carolina State Bar,” et al (US District Court, EDNC).** Krista Bennett and Fern Gunn Simeon are State Bar employees. During some or all of the events alleged in the complaint, John Silverstein served as Chair of the Grievance Committee and is presently President of the State Bar. Myers asserted that the State Bar defendants, the North Carolina Court system, and numerous Johnston County government officials violated her rights. She did not describe the alleged violation with particularity but it appears to arise out of Myers’ arrest by Johnston County law enforcement officials. The court allowed the State Bar defendants’ motions to strike and dismiss. Myers appealed to the Fourth Circuit Court of Appeals. The Fourth Circuit dismissed that appeal as interlocutory. On January 19, 2016, the Court dismissed Myers’ claims against the remaining defendants. Myers again appealed to the Fourth Circuit. The Fourth Circuit dismissed that appeal and denied her petition for *en banc* hearing. On October 2, 2017, the Supreme Court denied Myers’ petition for writ of *certiorari*. The Office of Counsel represented the State Bar defendants.

**David S. Harless v. Root Edmonson et al (US District Court for the Southern District of West Virginia).** In 2005, David S. Harless was transferred to disability inactive status. Harless’ petitions for reinstatement to active status were denied in 2010 and 2012 because he did not demonstrate that he was no longer disabled. The Office of Counsel learned that the United States District Court for the Southern District of West Virginia dismissed a lawsuit Harless filed against State Bar employees Root Edmonson and Jennifer Porter, among others. The court characterized the complaint as “incoherent, fanciful ramblings which lack any arguable basis in law or fact.” The complaint had not been served on Edmonson or Porter. Harless did not appeal.

**Japeth Matemu v. the North Carolina State Bar (US District Court, EDNC).** On March 20, 2017, Matemu filed a complaint in federal court alleging that the Grievance Committee issued a reprimand against him without jurisdiction. Matemu is licensed in New York, but practices immigration law in Raleigh and the reprimand was issued based upon Rule 8.5 in connection with his representation of North Carolina clients. On March 21, the Court entered an order denying Matemu’s requests for a TRO and a preliminary injunction and ordered Matemu to show cause why his lawsuit should not be dismissed. On March 23, Matemu filed a voluntary dismissal without prejudice.

## **SUMMARIES OF DISCIPLINARY, DISABILITY & REINSTATEMENT ACTIONS**

### **COUNCIL DISBARMENTS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Disbarment</b>
Michael E. Eldredge	17BCS1	07/28/2017
Christopher Marc O'Neal	17BCS2	07/28/2017
Mital M. Patel	17BCS3	10/27/2017

### **JUDICIAL DISBARMENTS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Disbarment</b>
Christopher E. Greene	16CVS14668	01/12/2017
Adam Loren Baker	16CVS13142	02/03/2017
Marvin R. Sparrow	15M004218	05/11/2017
Eric Winston Stiles	15SP155	07/26/2017
Christian Scott Mathis	16CRS054816/16CRS054868	08/08/2017
Michael A. Johnson	17CR004108	09/08/2017
Johnny S. Gaskins	17CRS3902/17CRS3903	11/02/2017

### **JUDICIAL DISCIPLINE & DISABILITY**

<b>Lawyer</b>	<b>File No.</b>	<b>Discipline/Disability</b>
Brad Harrison Ferguson	16SP41	Reinstated from disability inactive status
Ronald Tyson Ferrell	17CRS50505 et al.	Suspended 5 yrs; possible stay after 2 yrs
Charles R. Gurley	17CVS5635	Enjoined from practicing law
Dee W. Bray, Jr.	17R155	Disability Inactive
Blair M. Pettis		Suspended until further order of the court

### **RECIPROCAL DISCIPLINE**

<b>Lawyer</b>	<b>File No.</b>	<b>Discipline</b>
Gregory Robert Noonan	16G1190	Disbarred
John R. Hibner	16G0744	4 yr Suspension
Joel M. Bresler	14G0758	91 day Suspension
Joel Geer	15G1100	Suspended until reinstated SC
Kahiel R. Barlowe	16G1206	Censure
Guy F. Brown	16G1119	Admonition
Brenda C. Wagner	16G0826	Admonition

**TRANSFERS TO DISABILITY INACTIVE STATUS**

<b>Lawyer</b>	<b>File No.</b>	<b>Date of Transfer</b>
H. Monroe Whitesides	17D1	03/23/2017
John M. Rich	16G1078, 16G1215, 16G1354, 16G1355	04/19/2017
Elizabeth Murray-Obertein	17G0475	06/29/2017
Michael Schlosser	17D2	11/27/2017

**BEFORE THE DISCIPLINARY HEARING COMMISSION**

**Completed Discipline & Disability Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Carlos D. Watson	17DHC18	Disbarred (consent)
Steven Troy Harris	17DHC9	Disbarred (default)
Edna Ruffin Walker	17DHC10	Disbarred (consent)
Scott C. Dorman	16DHC26	Disbarred (hearing)
Gregory L. Perry	16DHC26	Disbarred (consent)
William E. Brown	15DHC28	Disbarred (default)
Lennard D. Tucker	16DHC34	Disbarred (default)
Paul N. Blake, III	16DHC25	Disbarred (default)
Alvaro De La Calle	16DHC19	5 year suspension (hearing)
Jerry Braswell	16DHC37	5 year suspension (hearing)
Darin P. Meece	17DHC36	1 year suspension (consent)
Mary March Exum	16DHC18	5 year suspension; possible stay after 2 years (hearing)
Craig Owen Asbill	16DHC40	4 year suspension; possible stay after 2 years (default)
Stephanie L. Villaver	17DHC3	5 year suspension; stayed 5 years (consent)
Marjorie R. Mann	17DHC6	4 year suspension; stayed 4 years (consent)
Andrew C. Jackson, Jr.	16DHC32	3 year suspension; stayed 4 years (consent)



<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Lawrence J. D'Amelio, III	17DHC2	3 year suspension; stayed 3 years (consent)
David H. Harris, Jr.	16DHC30A	2 year suspension; stayed 2 years (consent)
Andrew J. Hanley	17DHC16	2 year suspension; stayed 2 years (consent)
Clay A. Collier	17DHC15	2 year suspension; stayed 2 years (consent)
Cowles Liipfert	17DHC34	2 year suspension; stayed 2 years (consent)
Darnell Parker	17DHC30	2 year suspension; stayed 2 years (consent)
William Trippe McKeny	17DHC5	2 year suspension; stayed 2 years (consent)
Derek Ross Fletcher	16DHC31	1 year suspension; stayed 3 years (consent)
Nicholas S. Ackerman	16DHC33	1 year suspension; stayed 2 years (consent)
Douglas J. Tate	17DHC12	1 year suspension; stayed 2 years (consent)
Robert M. Donlon	17DHC22	1 year suspension; stayed 2 years (consent)
Robert G. Raynor, Jr.	17DHC11	1 year suspension; stayed 1 year (consent)
Pedro Eduardo Krompecher	17DHC13	1 year suspension; stayed 1 year (consent)
Robert N. Weckworth	16DHC22	censure (hearing)
James I. Averitt	16DHC4D	disability inactive (consent)
Lisa M. Dukelow	16DHC8D	disability inactive (consent)
Jeanne P. Hall	17DHC4	disability inactive (consent)
Fletcher L. Hartsell, Jr.	17DHC7	interim suspension (consent)
Craig M. Blitzer	17DHC23	interim suspension (consent)
Phillip H. Hayes, Jr.	17DHC27	interim suspension (consent)

### **Completed Show Cause Hearings**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
John M. Holmes	16DHC5	3 year suspension activated; possible stay after 3 months (consent)
Dennis H. Sullivan, Jr.	12DHC1	3 year suspension activated; possible stay after 1 year (consent)
Nicholas S. Ackerman	16DHC33SC	1 year suspension activated; possible stay after 6 months (consent)
Robert M. Gallant	15DHC22SC	2 year suspension activated
Jeffrey D. Smith	15DHC27SC	2 year suspension extended for 3 years; conditions for stay modified with additional requirements
Michael Williamson	16DHC28SC	3 year suspension activated

### **Completed Reinstatement Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Outcome</b>
Jonathan A. McCollum	10BCS2/16BCR3	Reinstatement denied by DHC May 2017 (hearing); Conditional reinstatement granted by Council October 2017 (hearing)
Robert J. Burford	11DH3/16BSR6	Reinstated by DHC (consent)
Jane Dearwester Soboleski	15DHC52B/ 15DHC52B-R	Reinstated by DHC; remaining suspension stayed (consent)
William Trippe McKeny	13DHC4/17BSR1	Reinstated by DHC (consent)
Steven B. DeCillis	12DHC25/17BSR2	Petition withdrawn
William I. Belk	13DHC6/17BSR3	Reinstated by Secretary (consent)
Michelle A. Hickerson	15DHC51/17BSR4	Reinstated by DHC; remaining suspension stayed (consent)
Willie D. Gilbert	03DHC16/17BSR5	Reinstated by Secretary (consent)
Steven B. DeCillis	12DHC25/17BSR6	Reinstated by DHC; remaining suspension stayed (hearing)
Jonathan Silverman	15DHC48/17BSR7	Reinstated by DHC; remaining suspension stayed (consent)
Tracey E. Cline	12DHC22/17BSR8	Reinstatement denied (hearing)

**Pending Discipline & Disability Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
Bradley R. Lamb	07DHC28	Not scheduled (stayed)
Robert Melville, Jr.	13DHC9	Not scheduled (stayed)
Michael J. Anderson	15DHC47/15DHC47D	Not scheduled (stayed)
Amy Allred	16DHC2	Not scheduled
Joseph Lee Levinson	16DHC11	Not scheduled (stayed)
Jesse W. Jones	16DHC17	Not scheduled
Scott Shelton	17DHC1	Not scheduled
Brent King	17DHC8	Not scheduled
Frederick J. Owens	17DHC17	February 27, 2018
Joseph Forbes	17DHC 19	Not scheduled
Michael Parker	17DHC20	February 8-9, 2018
Julie Parker	17DHC21	February 8-9, 2018
Craig M. Blitzer	17DHC23	Interim Suspension
Richard Schultz	17DHC24	June 8, 2018
Jerry B. Clayton, Robert W. Myrick, Robert D. McClanahan, Ronald G. Coulter, Gladys Nichole Clayton	17DHC25	June 27-28, 2018
Joe S. Major, III	17DHC26	Not Scheduled
Bryon M. Smith	17DHC18	March 22, 2018
Gavin A. Brown	17DHC29	April 12, 2018
Mark V. Gray	17DHC31	May 24, 2018
Phillip S. Adkins	17DHC32	Not scheduled
Kevin Kennedy	17DHC33	Not scheduled
Carson W. Freeman	17DHC25	August 2-3, 2018
Matthew A. Smith	18DHC1	Interim suspension
Paige C. Cabe	18DHC2	Not scheduled
Arnold O. Jones	18DHC3	Not scheduled
Jeffrey W. Ellingworth	18DHC4	Not scheduled
Tania L. Leon	18DHC5	Not scheduled
Larry G. Hoyle	18DHC6	Not scheduled
Robert R. Schoch	18DHC7	Not scheduled
Jeffrey Dalrymple	18DHC8	Not scheduled
Thomas S. Hicks	18DHC9	Not scheduled
Cindy C. Huntsberry	18HC10	Not scheduled
James MacHeron Goard	18DHC11	Not scheduled
Lisa Page	18DHC12	Not scheduled
Jeffrey S. Miller	18DHC13	Not scheduled

**Pending Reinstatement Cases**

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
Shaun L. Hayes	16DHC38	Not scheduled
R. Kelly Calloway, Jr.	16DHC3	January 19
Theophilus O. Stokes, III	10DHC37/17BCR1	January 29
Joan Elizabeth Spradlin	17RD1	February 20
Tracey Cline	12DHC22/17BSR8	Not scheduled

**Pending Show Cause Hearings**

<b>Lawyer</b>	<b>File No.</b>	<b>Hearing Date</b>
David A. Lloyd	14DHC15	January 5, 2018

**BEFORE THE STATE TRIAL COURTS**

**Trustees Appointed in 2017**

<b>Lawyer</b>	<b>Reason Trustee Sought</b>
Joseph Williams Hart	Deceased
Kimberly M. Ferrier	Physical Condition
Rion C. Brady	Deceased
Dee W. Bray	Disability
Fred Elvin Lewis	Deceased
Henry Monroe Whitesides	Disability
Christopher E. Greene	Disbarred
Noland Randolph Mattocks	Deceased
Charles Kenyon Hubbard	Deceased
Elisabeth Murray-Obertein	Physical Condition
Alfred P. Carlton	Deceased
Terry Craig Wright	Deceased
Donna E. Bennick	Deceased
John M. Bahner	Deceased
Martin J. Horn	Disability
Tracy Brooks Silver	Physical Condition
Farris A. Duncan	Deceased
Charles R. Gurley	Judicial
Powell W. Glidewell	Judicial
Randolph Hill	Deceased

### **TROs and Preliminary Injunctions Obtained in 2017**

<b>Lawyer</b>	<b>Date of Injunction</b>
Dee W. Bray, Jr., Fayetteville	02/02/2017
James Marshall Shelton, Burlington	03/17/2017
A. Scott Hamilton, Henderson	03/27/2017
Paige C. Cabe, Sanford	04/10/2017
Lawrence Wittenberg, Raleigh	04/20/2017
Joe S. Major, III, Charlotte	05/08/2017
Charles R. Gurley, Goldsboro	05/08/2017
H. Trade Elkins, Hendersonville	05/24/2017
Christopher T. Watkins, Graham	06/30/2017
Kenneth B. Holmes, Statesville	07/07/2017
Christie A. Misocky, Fort Mill, SC	08/04/2017
Van H. Johnson, Elizabeth City	12/04/2017
Hubert N. Rogers, III, Lumberton	12/12/2017

### **BEFORE THE GRIEVANCE COMMITTEE**

#### **Totals for 2017**

Total Grievance Files Opened – 1,305

Total Files Considered by Committee –1,387

Dismissals – 1,082

Files Dismissed & Retained –11      Files Abated – 10

Files referred to the Lawyers Assistance Program – 3

Files referred to the Trust Accounting Compliance Program - 7

Files Dismissed with Letters of Caution – 21

Files Dismissed with Letters of Warning – 67

Files issued Admonitions – 38

Files issued Reprimands – 33

Files issued Censures – 6

Files issued Reciprocal Discipline – 7

Files referred to DHC – 99

### **GRIEVANCE COMMITTEE MEETING JANUARY 26, 2017**

- 235 files were dismissed
- 5 files were abated
- 3 files were continued
- 0 lawyers were referred to the Lawyers Assistance Program
- 0 lawyers were referred to the Trust Accounting Compliance Program
- 5 lawyers received letters of caution
- 12 lawyers received letters of warning
- 7 lawyers received admonitions
- 7 lawyers received reprimands
- 1 lawyer received a censure
- 13 lawyers were referred to the Disciplinary Hearing Commission

### **GRIEVANCE COMMITTEE MEETING APRIL 20, 2017**

- 229 files were dismissed
- 4 files were dismissed and retained
- 1 file was abated
- 2 files were continued
- 1 lawyer was referred to the Lawyers Assistance Program
- 1 lawyer was referred to the Trust Accounting Compliance Program
- 5 lawyers received letters of caution
- 21 lawyers received letters of warning
- 15 lawyers received admonitions
- 5 lawyers received reprimands
- 2 lawyers received censures
- 14 lawyers were referred to the Disciplinary Hearing Commission

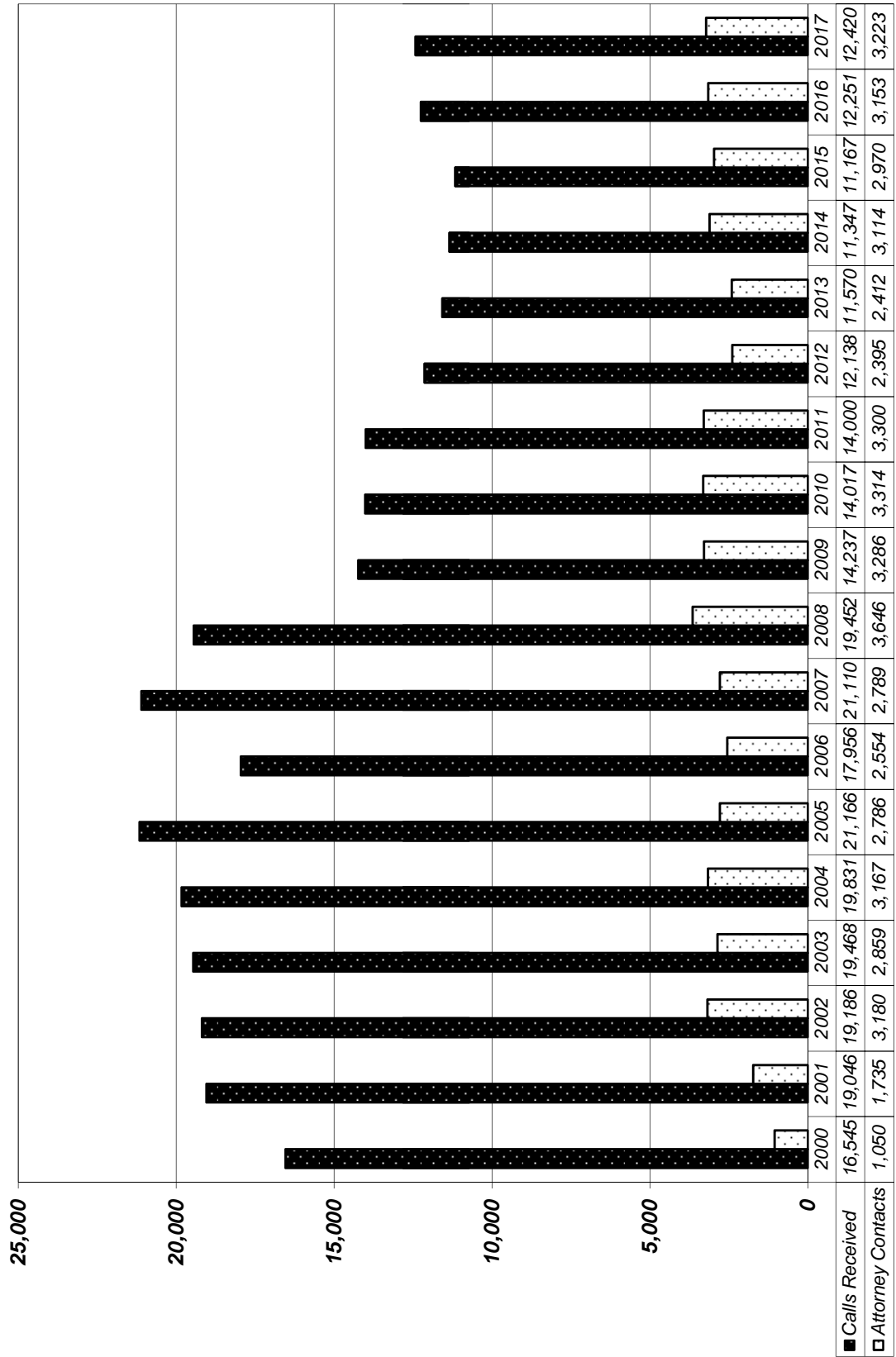
### **GRIEVANCE COMMITTEE MEETING JULY 27, 2017**

- 319 files were dismissed
- 1 files were dismissed and retained
- 7 files were abated
- 0 files were continued
- 2 files were denied reconsideration
- 1 file was issued reciprocal discipline
- 2 lawyers were referred to the Lawyers Assistance Program
- 5 lawyers were referred to the Trust Accounting Compliance Program
- 8 lawyers received letters of caution
- 22 lawyers received letters of warning
- 12 lawyers received admonitions
- 14 lawyers received reprimands
- 4 lawyers received censures
- 23 lawyers were referred to the Disciplinary Hearing Commission

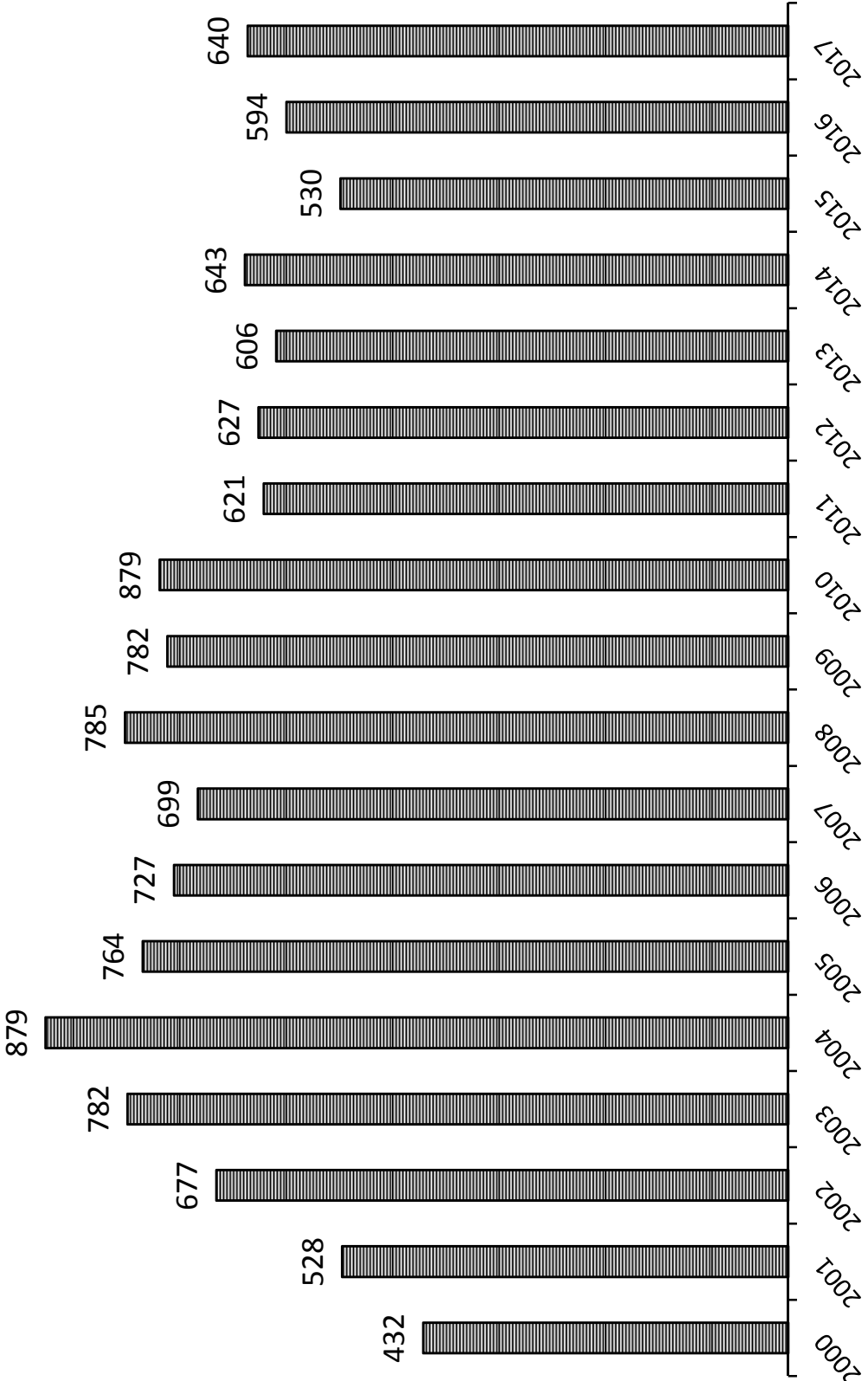
### **GRIEVANCE COMMITTEE MEETING OCTOBER 26, 2017**

- 317 files were dismissed
- 3 files were dismissed and retained
- 2 files were abated
- 4 files were continued
- 2 lawyers were referred to the Lawyers Assistance Program
- 1 lawyer was referred to the Trust Accounting Compliance Program
- 2 lawyers received reciprocal discipline
- 3 lawyers received letters of caution
- 10 lawyers received letters of warning
- 8 lawyers received admonitions
- 1 lawyer received a reprimand
- 0 lawyers received censures
- 13 lawyers were referred to the Disciplinary Hearing Commission

# **ATTORNEY CLIENT ASSISTANCE PROGRAM** **Calls Received and Attorney Contacts** (January - December)

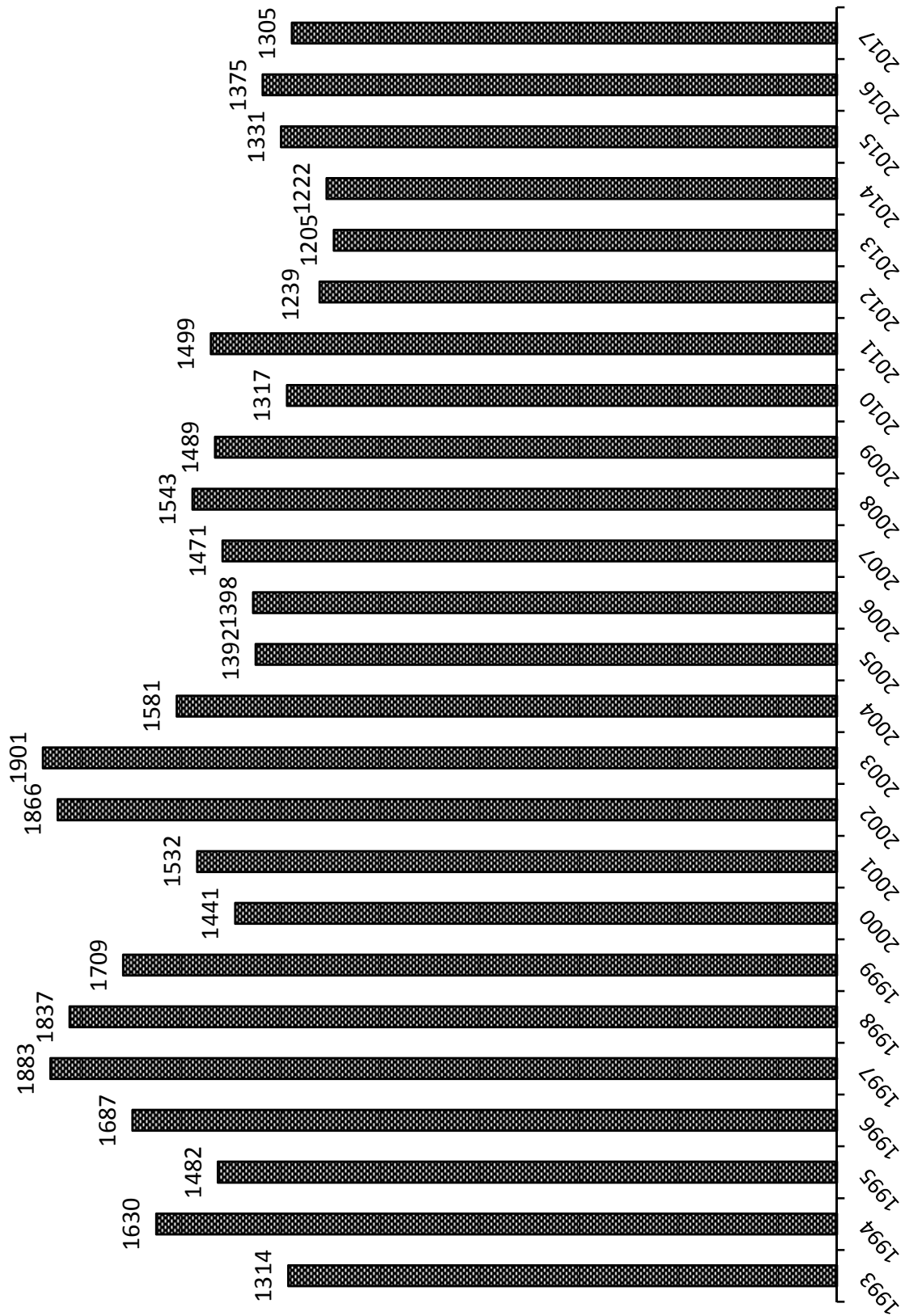


# Fee Dispute Resolution Petitions Filed





# Grievances Filed Annually



## Surrenders and Disbarments (DHC, Council and Courts)

