



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

**2013**  
**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
Alyssa M. Chen, Deputy Counsel	Ext. 293
Susannah B.Cox, Deputy Counsel	Ext. 235
Joshua T. Walthall, Deputy Counsel	Ext. 225
Peter G. Bolac, Trust Account Compliance Counsel	Ext. 282

### **INVESTIGATORS**

Joe Commisso, Director of Investigations	Ext. 200
Roger Allen, Investigator	Ext. 265
Eddie Capel, Investigator	Ext. 294
Ed White, Investigator	Ext. 263
Fred Patton, Investigator	Ext. 266
George Muench, Investigator	Ext. 284
Wayne Truax, Investigator	Ext. 292
Tim Batchelor, Investigator	Ext. 274
Krista Carlson, Investigator	Ext. 224
Whit Ruark, Investigator	
Randy Ross, Investigator, Client Security Fund	Ext. 201
Anne Parkin, Auditor	Ext. 259

### **ADMINISTRATIVE STAFF**

Heather Pattle, Administrator	Ext. 227
Becky Carroll, Paralegal	Ext. 234
Wondella Payne, Paralegal	Ext. 296
Melanie Kincaid, Paralegal	Ext. 233
Angie Magdalena, Paralegal	Ext. 280
Kristina Troskey, Paralegal	Ext. 277
Lori Brooks, Administrative Assistant	Ext. 232
Joshua Hoffman, Administrative Assistant	Ext. 295
Dawn Whaley, Administrative Assistant	Ext. 278
Chris Woods, Investigative Assistant	Ext. 222
Sonja Puryear, Investigative Clerk	Ext. 203

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

Luella Crane, Director & Certified Mediator	Ext. 251
Krista Bennett, Mediator	Ext. 228
Sandra Saxton, Public Liaison	Ext. 264
Judy Treadwell, 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 and coordinates appointment of trustees to wind down their practices. 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 fifteen lawyers, one administrator, five paralegals, six administrative assistants, eleven 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 on pages one and two of this report.

# **2013 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, one of which is a certified mediator, and one administrative assistant. During 2013 the staff responded to 11,570 calls from clients and various members of the general public. Incoming calls decreased from the 12,138 received in 2012. The ACAP staff contacted 2,412 lawyers in an attempt to resolve clients’ concerns. The ACAP staff also responded to 2,111 letters from inmates and 596 email messages from clients and lawyers.

The State Bar opened 606 fee dispute resolution files during 2013. Of those files, 112 were assigned to the five judicial district fee dispute resolution committees. The remaining 494 were assigned to in-house facilitators.

## **Authorized Practice Committee**

The Authorized Practice Committee opened 80 investigation files in 2013, compared to 87 files opened in 2012. The committee resolved 77 files during 2013.

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 prepaid legal service plans. During 2013, no new plans were registered. Two plans registered amendments to existing plans. Currently, 69 prepaid plans are registered.

In May 2011, the office filed a civil action against an Illinois company, Lienguard, Inc. The complaint alleges that Lienguard prepared and offered to prepare mechanics and materialmen’s liens for filing in North Carolina. After negotiations failed, Lienguard filed an answer. Lienguard then retained counsel and moved to the case to the Business Court. When Lienguard amended its answer and filed a counterclaim, the Attorney General undertook to represent the State Bar. The parties await rulings on their’ cross motions for judgment on the pleadings.

In 2011, the office was authorized to seek an injunction against Craig McGannon. Settlement negotiations have reached an impasse and counsel will file a complaint.

In July 2012, the office filed a civil action for injunction against Grover and Patricia Jones, who operate a West Virginia business that claims to assist inmates on habeas corpus petitions and other legal matters. The office obtained a permanent injunction in October 2013. The defendants gave notice of appeal but have done nothing further to perfect their appeal. Counsel will move to dismiss the appeal.

In May 2012, the office obtained an order holding Dennis Lockett in contempt for violating an injunction the office obtained in 2006. After the contempt order was entered, Lockett plead guilty in federal court. He has complied with all enforceable terms of the contempt order.

In October 2012, the office was authorized to file for injunctive relief against an Ohio business named Mortgage Information Services. Mortgage Information Services is attempting to close residential loan transactions. The office has not yet prepared the complaint.

In October 2012, the office was authorized to seek bring an action as co-counsel with the Consumer Protection Division of the North Carolina Department of Justice to obtain injunctive relief against World Law Group. WLG operates a debt relief business out of Texas that drafts and provides pleadings for debtors to file "*pro se*." The office filed the complaint in Wake County Superior Court in May 2013 and obtained a preliminary injunction in June. After the preliminary injunction was entered, the lawyer who represents WLG formed a new North Carolina business corporation, World Law South. World Law South sued the State of North Carolina and the State Bar, alleging that they somehow harmed WLS by bringing the lawsuit against WLG. In that lawsuit, WLS alleged that it has the identical business model that the Wake County Superior Court enjoined WLG from pursuing. The WLS action is pending in the Business Court. The State Bar's motion to dismiss the WLS action is pending.

In December 2012, the office filed a civil action to enjoin Sidney Harr from filing pleadings in Durham County Superior Court on behalf of a criminal defendant facing murder charges. The office obtained an injunction in February 2013.

In April 2013, the office was authorized to seek injunctive relief against disbarred attorney Tonya Ford. After she was disbarred, Ford collected a fee to prepare wills and other documents for a couple. The complaint is ready for filing.

In April 2013, the office was authorized to seek injunctive relief against Shelley Bennett. Bennett is a self-identified paralegal who advertised on a Spanish language radio station that he could handle immigration matters. The office is preparing the complaint.

In April 2013, the office was authorized to seek an order holding Diane Carter in contempt of an injunction prohibiting her from practicing law. Carter continues to file documents with the court despite the injunction. The office is preparing the motion.

In July 2013, the office was authorized to seek injunctive relief against Nathan Curry. Curry is a former school administrator in Durham who took a fee from a discharged teacher claiming he could help her appeal the discharge. Curry admitted his conduct but did not refund the fee he collected. The office is preparing the complaint.

In July 2013, the office was authorized to seek injunctive relief against disbarred lawyer R. Lewis Ray. Ray attempted to represent several plaintiffs who alleged that they were wrongfully detained by a store. The office is preparing the complaint.

The office continues to work with the Consumer Protection Division of the North Carolina Attorney General's Office to prevent a number of debt adjusting and loan modification firms from offering the services of lawyers who are not licensed to practice law in North Carolina. The services of these lawyers constitute the unauthorized practice of law. Debt adjusting is illegal in North Carolina. The office and the Consumer Protection Division are also working to stop business entities that offer to prepare living trusts for senior citizens.

### **Trust Account Compliance Program**

Thirteen lawyers are participating in the Trust Account Compliance Program. In 2013, seven lawyers successfully completed the program and one lawyer was dismissed for failure to comply. The trust account compliance counsel reviews random audits quarterly to identify and evaluate potential participants in the program.

### **Grievance Committee Actions**

During 2013, the State Bar opened 1,205 grievance files, compared with 1,239 files opened in 2012.

Also in 2013, the office reviewed 10 direct mail solicitation letters. All of the reviewed letters involved minor violations of advertising ethics rules and were resolved without opening grievance files. The office reviewed 28 direct mail solicitation letters in 2012.

All grievances received by the State Bar must be considered and acted upon by one or more members of the Grievance Committee. The committee considered a total of 1,193 grievances during 2013. Of those, 947 were dismissed. Twelve files were dismissed and retained because the respondent lawyers had been disbarred. Four files were abated because the respondent lawyers had been transferred to disability inactive status. These files represent approximately 81 percent of the grievances considered by the committee. In addition to the grievances that were dismissed outright in 2013, 26 files were dismissed with letters of caution and 41 were dismissed with letters of warning.

In 2013, the Grievance Committee issued admonitions in 38 files, reprimands in 26 files and censures in nine files. Eighty-one files, involving 41 lawyers, were referred for trial before the Disciplinary Hearing Commission (DHC). The Grievance Committee imposed reciprocal discipline for three lawyers. A total of 157 grievances resulted in either imposition of discipline by the Grievance Committee or referral to the DHC. That figure represents approximately thirteen percent of the grievances considered by the committee in 2013. The committee referred three lawyers to the Lawyers' Assistance Program and three lawyers to the Trust Account Management Program. At the end of 2013, three files had been continued for further investigation.

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

### **1. Disciplinary 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 layperson.

During 2013, the Office of Counsel completed a total of 58 disciplinary, reinstatement, and show cause cases before the DHC, representing 74 files referred by the Grievance Committee. Of those, 25 were resolved by hearing or default judgment and 31 were resolved by consent. The office filed voluntary dismissals without prejudice in two cases where the defendant lawyers were disbarred in superior court before the DHC proceedings were held. In 2012, the office completed 39 such cases. Of those, 13 were resolved by trial and 26 were resolved by consent.

In 2013, the DHC entered nine orders of disbarment. In seven cases, the lawyers misappropriated funds from a client, estate, or from funds held in trust to pay Medicare liens or medical providers. One lawyer abandoned his law practice, neglected clients, and did not properly handle entrusted funds. One lawyer pled guilty to two counts of misdemeanor communicating threats and one count of common law obstruction of justice; engaged in a sexual relationship with a client who was a victim of domestic violence; asked the client to lie and deny the sexual relationship so he could defend against an alienation of affection lawsuit threatened by the client's husband; threatened the client with using information he had obtained during the attorney-client relationship to cause her to lose custody of her children; threatened to kill his legal secretary; filed a verified complaint against his client alleging falsely stated that he did not have a sexual relationship with her and alleging that the client defamed him by saying otherwise; revealed confidential client information in the defamation lawsuit; and made false statements to the Grievance Committee.

In 2013, the DHC imposed four active suspensions, ten suspensions in which the lawyer could seek a stay after serving some period of active suspension, and 13 suspensions entirely stayed upon the lawyer's compliance with various conditions. The office filed show cause petitions against four lawyers and in all four cases a period of suspension was activated. The DHC censured two lawyers and reprimanded one lawyer. Two cases were dismissed.

### **2. Reinstatement Cases**

In 2013, the DHC denied the petitions of two disbarred lawyers and one suspended lawyer seeking reinstatement. The DHC reinstated one suspended lawyer.

## **Actions Before the State Bar Council**

### **1. Tenders of Surrender of License**

In 2013, two lawyers surrendered their law licenses to the State Bar Council and were disbarred. Both misappropriated entrusted funds. Two lawyers surrendered their law licenses and were disbarred by the Council during 2012.

### **2. Reinstatement Proceedings**

In 2013, the Council voted to reinstate the law license of a disbarred 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 2013. The Secretary reinstated six lawyers. The office objected to two petitions. The DHC denied one petition and allowed one petition. The Secretary also transferred one lawyer to disability inactive status in 2013.

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

### **1. Judicial Disbarments**

In 2013, seven lawyers were disbarred by the Wake County Superior Court. Three lawyers misappropriated entrusted funds. Three lawyers knowingly prepared and provided lenders with HUD-1 Settlement Statements that did not accurately show the receipt and disbursement of funds. One lawyer pled guilty to felony embezzlement, felony forgery, felony obstruction of justice, misdemeanor larceny, and unauthorized use of a motor vehicle. In 2012, six lawyers surrendered their licenses to superior courts and were disbarred.

### **3. Injunction Proceedings**

During 2013, the Office of Counsel obtained injunctions prohibiting 15 lawyers from handling entrusted funds. The office obtained injunctions against 22 lawyers in 2012.

### **4. Appointment of Trustees for Law Practices of Missing, Deceased, Disabled & Disbarred Lawyers**

In 2013, the Office of Counsel petitioned the courts to appoint trustees to wind down the law practices of 19 lawyers. Of that number, three lawyers abandoned their law practices, six lawyers were disabled, and ten lawyers had died. The State Bar filed 18 trustee petitions in 2012.



5. Disciplinary and Disability Cases in the State Trial Courts

One lawyer was transferred to disability inactive status by the New Hanover County Superior Court.

Two lawyers were suspended by the Brunswick County Superior Court. One lawyer was the former elected district attorney who pled guilty to the criminal charge of willful failure to discharge the duties of his office. The other lawyer was a former assistant district attorney who pled guilty to one count of misprision of felony, a misdemeanor. Both were suspended for six months.

6. Miscellaneous

As usual, in 2013 the State Bar was a party to numerous actions in the State courts. The Office of Counsel represented the State Bar in many of these actions. In seven cases, the State Bar is represented by the Attorney General.

At the end of 2013, the office had three pending cases in district and superior courts seeking reimbursement from disbarred lawyers for payments made by the Client Security Fund.

The office appeared in Wake County Superior Court to obtain permission to disburse funds from the trust accounts of four disbarred, deceased, or disabled lawyers.

The State Bar was a party to the following cases in state trial courts during 2013:

**LegalZoom.com, Inc. v. North Carolina State Bar (NC Business Court).** LegalZoom, a national online legal document preparation service, commenced this action against the State Bar on September 30, 2011. In 2008, the AP Committee sent LegalZoom a cease and desist letter advising it to cease engaging in the unauthorized practice of law in North Carolina. In 2010, LegalZoom filed an application to register a purported prepaid legal service plan. The AP Committee did not register the purported plan because it failed to meet the definition of a prepaid legal service plan. The committee sent LegalZoom written notice of its reasons and asked LegalZoom to address the issues that were of concern to the committee. LegalZoom declined to do so. As a result, the committee has not yet made a final decision about registering the purported plan. LegalZoom alleges that the State Bar is violating the anti-monopoly and equal protection clauses of the North Carolina Constitution and seeks declaratory and injunctive relief. The case was transferred to the Business Court. The State Bar has counterclaimed for injunctive relief. The parties await decisions on their' cross motions for judgment on the pleadings and on LegalZoom's untimely motion for jury trial, which were heard in June 2013. The Attorney General represents the State Bar.

**North Carolina State Bar v. Lienguard, Inc. (NC Business Court).** At the October 2010 meeting, the Executive Committee authorized counsel to seek an injunction against Lienguard, Inc. Lienguard is an Illinois corporation that offers to prepare and file materialmen's liens in any jurisdiction. The State Bar filed this action after Lienguard refused to stop offering its services in North Carolina. On July 30, 2012, the lawyer who also represents LegalZoom filed

a notice of appearance and various motions, including a motion to amend Lienguard's answer. Lienguard's amended answer contains a counterclaim seeking a declaration that Lienguard is not engaged in the unauthorized practice of law, a declaration that the State Bar's enforcement action violates the anti-monopoly and equal protection clauses of the North Carolina Constitution, injunctive relief, and attorney fees. The case was transferred to the Business Court. The parties await rulings on their cross motions for judgment on the pleadings, which were heard in June 2013. The Attorney General represents the State Bar.

**World Law South, Inc. v. North Carolina State Bar (NC Business Court).** World Law South, Inc. (WLS) was incorporated on August 6, 2013 by the lawyer who represents LegalZoom and Lienguard and represents some of the defendants in the World Law Group (WLG). WLS filed this action on August 19, 2013, 13 days after it came into existence. WLS alleges that in May, 2012 the State Bar sent a cease and desist letter to WLG, that on May 22, 2013 the State Bar and the Attorney General filed the WLG case against parties other than WLS, that WLS is "related to" WLG and conducts its business "identically" to WLG, that the State Bar's cease and desist letter to WLG was wrongful and somehow harms WLS, and that the court should enter an order granting relief both to WLS and to WLG, which is not a plaintiff in the action. The case was transferred to the Business Court. The State Bar's motion to dismiss is pending. The court has not scheduled oral argument. The Attorney General represents the State Bar.

**LegalZoom, Inc. v. North Carolina State Bar (Wake County Superior Court).** On October 11, 2013, LegalZoom filed this lawsuit alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 in responding to its fifth public records request, served on the State Bar on September 18, 2013. LegalZoom alleged that the State Bar produced both too few and too many documents in response to its second, third and fourth public records requests. It sought an order compelling the State Bar to respond differently and sought an award of attorney fees. It delivered an amended complaint on October 15. LegalZoom scheduled an "emergency" hearing October 16 at which it did not present any evidence to support its claims. The court entered an order on December 27 ordering the parties to mediation. The State Bar is preparing an objection and motion for clarification and amendment of the order.

**World Law South, Inc. v. North Carolina State Bar (Wake County Superior Court).** On October 14, 2013, WLS filed a complaint alleging that the State Bar did not comply with N.C. Gen. Stat. Chapter 132 because it allegedly did not respond "as promptly as possible" to a public records request. The public records request was served upon the State Bar on September 18, 2013 by the lawyer who represents LegalZoom and who represents some of the defendants in the World Law Group litigation. WLS has not served a public records request on the State Bar. WLS sought an order requiring the State Bar to show cause why it should not comply and sought attorney fees. WLS scheduled an "emergency" hearing October 16 at which it did not present any evidence to support its claims and in which it conceded that this lawsuit was filed "preemptively." The court entered an order on December 27 ordering the parties to mediation. The State Bar is preparing an objection and motion for clarification and amendment of the order.

**Christopher Livingston v. Carolin Bakewell, Margaret Cloutier, Carmen Bannon and the North Carolina State Bar (Wake County Superior Court).** Carolin Bakewell is a former State Bar employee. Margaret Cloutier and Carmen Bannon are current State Bar employees. Christopher Livingston was admonished by the DHC in 2008 for practicing law in other jurisdictions in which he was not admitted and for making disrespectful accusations about a federal district court judge. In January 2011, he filed this lawsuit seeking damages, injunctive relief, and attorney fees. The pleading asserts various theories of recovery but does not allege facts which would give rise to liability. The court allowed the defendants' motion to dismiss in December 2012. Livingston gave notice of appeal. The parties have filed their briefs. The Court of Appeals has scheduled the case for decision without oral argument. The Office of Counsel represents the defendants.

**Loushanda Myers v. "North Carolina Bar" et al (NC Industrial Commission).** Myers asserts this action under the North Carolina Tort Claims Act seeking damages she allegedly suffered because "the North Carolina Bar" dismissed a grievance against her former lawyer. She also sued a multitude of representatives of Johnston County government. Plaintiff's claims were all dismissed by the deputy commissioner and the Full Commission affirmed. Myers appealed to the North Carolina Court of Appeals. The Attorney General represents the State Bar.

**Neil Allran, Leslie Dale, and #1 in Freedom, LLC v. Roy Cooper, Walter Dalton, Anthony DiSanti, Keith Kapp, Ronald Baker, Ronald Gibson and Brian Oten, et al (Gaston County Superior Court).** These plaintiffs were represented by Hugh Johnston of Gastonia. The State Bar filed a DHC complaint seeking professional discipline against Johnston for filing outrageous and vexatious lawsuits on behalf of purported clients who did not authorize Johnston to represent them. Plaintiffs in this action sought a determination that the State Bar defendants violated their oaths of office and committed perjury by not enforcing the constitution's alleged mandate that all legal controversies must be determined through trial by jury. The plaintiffs did not appeal the court's order dismissing all claims. The Attorney General represented all defendants.

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

The office represented the State Bar in several appellate cases in 2013.

The DHC suspended Raleigh lawyer **Robert Burford** for two years but stayed the suspension for five years. Burford appealed and the State Bar cross-appealed. The court dismissed both appeals. The Supreme Court dismissed Burford's purported appeal and denied his petition for discretionary review. Burford also appealed the DHC's order lifting the stay of his suspension. The Court of Appeals dismissed that appeal in December 2013.

The Court of Appeals affirmed the DHC's order suspending Concord lawyer **Benjamin Small** for two years. The DHC found that Small filed frivolous pleadings even after the court sanctioned him for doing so. He also did not respond timely to the State Bar.

The DHC disbarred Raleigh lawyer **Geoffrey Simmons**. The DHC found that Simmons misappropriated entrusted funds. Simmons appealed. The Court of Appeals and the Supreme Court denied his petitions for stay. Both parties have filed briefs. The Court has not yet calendared the case.

The DHC suspended Greensboro lawyer **Jeffrey Berman** for one year. The DHC found that Berman did not disclose material facts to the court in a case involving custody of an abused child. Berman appealed. The suspension is automatically stayed pursuant to N.C. Gen. Stat. § 84-28(h). Berman has filed his brief. The brief of the State Bar is due January 17, 2014.

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

**North Carolina State Board of Dental Examiners v. Federal Trade Commission (US Court of Appeals for the Fourth Circuit).** On May 31, 2013, the Fourth Circuit issued an opinion holding that the North Carolina Dental Board and its individual members are not entitled to state action immunity in actions under the Sherman Antitrust Act because their actions are not supervised by other state officials. The State Bar filed a brief as *amicus curiae* urging the court to grant the Dental Board's request for rehearing or for rehearing *en banc*. The Fourth Circuit denied that petition. The Dental Board petitioned the United States Supreme Court for certiorari. The State Bar and a number of other state bars filed an *amicus* brief in support of that petition.

**Donna Pilch v. Katherine Jean, Melissa Brumback and Fred Morelock (US District Court, EDNC).** Pilch sued each defendant individually and in their official capacities as, respectively, the counsel, a former member of the 10th Judicial District Grievance Committee, and the former Chair of that committee. Pilch filed a grievance, which was investigated by the 10<sup>th</sup> and ultimately dismissed by the Grievance Committee. Pilch alleged that the defendants did not fulfill their duty under the Preamble to the Rules of Professional Conduct to cultivate and advance the science of jurisprudence, promote reform in the law and in judicial procedure, facilitate the administration of justice, and uphold and elevate the standards of honor, integrity and courtesy in the legal profession. She alleged that she brought to the State Bar's attention her contention that hundreds of criminal defendants were trapped in the Wake County court system's improper procedures and that the State Bar defendants should have "informed the North Carolina State Bar's legislative liaison to take action and contact the North Carolina General Assembly." Morelock was also alleged to have erred in assigning Brumbeck to investigate this grievance because she is a contract lawyer and is therefore allegedly not familiar with criminal law. Pilch sought injunctive relief, damages, and punitive damages. The court allowed the defendants' motion to dismiss. The court denied Pilch's motion to "void" the judgment. Pilch did not appeal. The Office of Counsel represented the State Bar defendants.

**Alan Pitts et al v. HUD, et al (US District Court, EDNC).** Counsel learned that State Bar employee Jennifer Porter, State Bar President Ron Baker, and "responsible members of North Carolina Bar Association" were among numerous named defendants in a *pro se* lawsuit filed by Pitts and his wife. Summons was issued for Porter but was never served. No summons was issued for Baker or "responsible members of North Carolina Bar Association." The

complaint alleges that in 1997 the plaintiffs did not receive title to all of the property they thought they were buying at a foreclosure sale due to a mistake in the property description. The complaint does not allege that Porter, Baker or the State Bar played any role in these events. The complaint appears to confuse the Bar Association with the State Bar. The court allowed the served defendants' motion to dismiss. Pitts gave notice of appeal. The Office of Counsel represents the State Bar defendants but has made no appearance because none of those it represents has been served with process.

**Loushanda Myers v. Krista Bennett, 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. John Silverstein is a State Bar councilor. Myers asserts that the State Bar defendants, the North Carolina court system, and a multitude of representatives of Johnston County government violated her rights. She does not describe this alleged violation with particularity but it appears to arise out of the events underlying her Tort Claims action described above. The court allowed the State Bar defendants' motions to strike and to dismiss and Myers appealed to the Fourth Circuit. The Fourth Circuit dismissed her appeal without response from the defendants. The Office of Counsel represented the State Bar defendants.

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

### **COUNCIL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Randolph E. Shelton, Jr.	13 BCS 1	01/25/2013
R. Dannette Underwood	13 BCS 2	04/19/2013

### **JUDICIAL DISBARMENTS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Disbarment</u>
Nicholas A. Stratas, Jr.	11CRS216881, 11CRS4532 11CRS211653, 13CRS646	02/01/2013
Leon Robert Coxe, III	12CVS5984	03/20/2013
Matthew G. Nestor	13M002619	05/22/2013
Phillip Graham Rose	13M004048	07/24/2013
Henry V. Barnette, III	13CV011525	08/23/2013
J. Lee Carlton, Jr.	13M005297	09/24/2013
Matthew J. Lester	13CVS000651	10/03/2013

### **JUDICIAL SUSPENSIONS**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
George Rexford (Rex) Gore	12CRS3195	6 month suspension
Elaine S. Kelley	13CRS1229	6 month suspension

### **BEFORE THE GRIEVANCE COMMITTEE RECIPROCAL DISCIPLINE**

<u>Lawyer</u>	<u>File No.</u>	<u>Discipline</u>
Philip M. Kleinsmith	12G1199	Reprimand
Scott David Beal	12G0428	2 year suspension
James H. Dickey	12G1097	2 year suspension

### **TRANSFERS TO DISABILITY INACTIVE STATUS**

<u>Lawyer</u>	<u>File No.</u>	<u>Date of Transfer</u>
Alexander H. Veazey, III	13BSD1	01/18/2013 (by Secretary)
Sam Drewes Ryan	13CVS499	06/06/2013 (by court)

**BEFORE THE DISCIPLINARY HEARING COMMISSION**

**Completed Discipline & Disability Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Sam H. Edwards	12 DHC 10	Disbarred (consent)
Geoffrey H. Simmons	12 DHC 38	Disbarred (hearing)
David A. Vesel	11 DHC 31	Disbarred (hearing)
Stephen R. Melvin	13 DHC 14	Disbarred (consent)
Alan M. Roughton	12 DHC 32	Disbarred (default)
John A. Mauney	12 DHC 36	Disbarred (default)
David E. Duke	13 DHC 18	Disbarred (consent)
Phillip H. Gilfus	13 DHC 15	Disbarred (hearing)
David Shawn Clark	12 DHC 42	Disbarred (hearing)
D. Bernard Alston	13 DHC 31	5 year suspension (consent)
William E. Brown	13 DHC 2	3 year suspension (default)
Susan M. Saturno	13 DHC 32	1 year suspension (consent)
Jeffrey S. Berman	12 DHC 31	1 year suspension (hearing) (stayed while on appeal)
Reid C. James	12 DHC 4	5 year suspension; possible stay after 3 years (consent)
Steven B. DeCillis	12 DHC 25	5 year suspension; possible stay after 3 years (consent)
Jason A. Gold	12 DHC 34	5 year suspension; possible stay after 2 years (hearing)
Melissa A. Goldsmith	12 DHC 35	5 year suspension; possible stay after 1 year (default)
Marshall F. Dotson, III	12 DHC 20	5 year suspension; possible stay after 1 year (consent)
Kenneth P. Andresen	12 DHC 17	4 year suspension; possible stay after 1 year (hearing)

**Completed Discipline & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Victor H. Morgan, Jr.	12 DHC 40	3 year suspension; possible stay after 18 months (hearing)
Dujuan E. Brown	12 DHC 37	3 year suspension; possible stay after 1 year (consent)
William "Trippe" McKeny	13 DHC 4	3 year suspension; possible stay after 1 year (consent)
William I. Belk	13 DHC 6	3 year suspension; possible stay after 1 year (hearing)
Tina Patrick-Broadway	12 DHC 30	4 year suspension; stayed 3 years (consent)
Edwin M. Hardy	13 DHC 22	2 year suspension; stayed 3 years (consent)
Wilbur L. Linton, Jr.	12 DHC 39	2 year suspension; stayed 3 years (consent)
Thomas H. Clements	13 DHC 8	2 year suspension; stayed 2 years (consent)
Phillip R. Dixon	13 DHC 10	2 year suspension; stayed 2 years (consent)
Bradley S. Tisdale	13 DHC 5	2 year suspension; stayed 2 years (consent)
Ashley Cannon	12 DHC 41	2 year suspension; stayed 2 years (consent)
Dan L. Merrell	12 DHC 13	2 year suspension; stayed 2 years (hearing)
John H. McWilliam	13 DHC 23	2 year suspension; stayed 2 years (consent)
Sameka B. Bennerman	12 DHC 26	1 year suspension; stayed 1 year (hearing)
Michael C. Park	12 DHC 15	1 year suspension; stayed 1 year (consent)
John David Hauser	13 DHC 19	1 year suspension; stayed 1 year (consent)



### **Completed Discipline & Disability Cases Continued**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Carole P. Burley	12 DHC 27	1 year suspension; stayed 1 year (consent)
Curtis C. Osborne	13 DHC 1	Censure (consent)
Thomas Brown, Jr.	13 DHC 16	Censure (hearing)
Barry B. Kempson	13 DHC 7	Reprimand (hearing)
Charles L. Busby & Ladd S. Gasparovic	12 DHC 6	Dismissed (hearing)
Gary Scarzafava	11 DHC 10	Dismissed (hearing)
Nicholas Stratas	12 DHC 19 & 12 D 1	Voluntary Dismissal (disbarred by court)
Hugh Wolfe Johnson	12 DHC 24	Voluntary Dismissal (disbarred by court)

### **Completed Show Cause Hearings**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Thomas H. Clements	13 DHC 8	2 year suspension activated (consent)
Deborah L. Williams	11 DHC 17	1 year suspension activated (consent)
Wilbur L. Linton, Jr.	12 DHC 39	2 year suspension activated (consent)
Willie D. Gilbert, II	03 DHC 16	3 year suspension activated (hearing)

### **Completed Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Outcome</u>
Matthew A. Bromund	05 DHC 16 & 12 BCR 1	reinstated by Council
Richard Thomas Hayes, V	09 DHC 16 & 12 BSR 4	reinstated by DHC
Michael F. Easley	10 DHC 43 & 13 BSR 1	reinstated by Secretary
James I. Durodola	12G1016 & 13 BSR 3	reinstated by Secretary
M. Thomas Norwood, III	11 DHC 26 & 13 BSR 4	reinstated by Secretary
Tolly A. Kennon, III	09 DHC 22 & 13 BSR 6	reinstated by Secretary
Paul. L. Erickson	07 DHC 17 & 13 BSR 7	reinstated by Secretary
Mark L. Bibbs	09 DHC 05 & 13 BSR 8	reinstated by Secretary
Edwin A. Peters	07 BCS 1 & 12 BCR 2	reinstatement denied
Evelyn Dove-Coleman	03 DHC 5 & 13 BCR 1	reinstatement denied
Gary B. Kivett	11 DHC 15 & 13 BSR 2	reinstatement denied

**Pending Disciplinary & Disability Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Bradley R. Lamb	07 DHC 28	stayed
Tracey Cline	12 DHC 22	stayed
Robert L. Scott	13 DHC 3	reschedule
Robert Melville	13 DHC 9	interim suspension
David Sutton	13 DHC 11	reschedule
Christopher Vaughan	13 DHC 22	reschedule
William Britt	13 DHC 13	01/27/2014
Robert Adams	13 DHC 17	01/10/2014
Robert Griffin	13 DHC 20	02/13-14/2014
Kia Scott	13 DHC 21	03/27-28/2014
William Shilling	13 DHC 24	02/07/2014
Gregory Bullard	13 DHC 26	01/31/2014
Alan DeLaine	13 DHC 27	02/28/2014
Sybil Barrett	13 DHC 28	not scheduled
Christopher Harper	13 DHC 29	03/13-14/2014
Steven Chevront	13 DHC 30	01/31/2014
Sue Mako	13 DHC 33	not scheduled

**Pending Reinstatement Cases**

<u>Lawyer</u>	<u>File No.</u>	<u>Hearing Date</u>
Douglas Simons	05 BCS 3 & 13 BCR 2	02/21/2014

## **BEFORE THE STATE TRIAL COURTS**

### **Trustees Appointed in 2013**

<u>Lawyer</u>	<u>Reason Trustee Sought</u>
Alexander H. Veazey, III	Disabled
Richard O. Gamble	Deceased
Ronald Carl True	Deceased
David S. Caplan	Deceased
Frank Wade Hall, Jr.	Deceased
Adrian A. Garcia	Abandonment
Helen Hinn	Deceased
Sam Drewes Ryan	Disabled
Cary Whitaker	Deceased
Thomas H. Clements	Abandonment
Marnite Shuford	Deceased
Barry M. Storick	Disabled
James T. Oxendine	Deceased
Wilbur L. Linton, Jr.	Abandonment
Barbara Baker	Disabled
Lee D. Andrews	Deceased
Cathie St. John-Ritzen	Deceased
Daniel L. Taylor	Disabled (now deceased)
Mark Waple	Disabled

### **TROs and Preliminary Injunctions Obtained in 2013**

<u>Lawyer</u>	<u>Date of Injunction</u>
Matthew Jeffrey Lester	01/15/2013
Wade H. Leonard, Jr.	01/23/2013
David A. Kirkbride	01/30/2013
Alexander H. Veazey, III	01/31/2013
Adrian Garcia	03/26/2013
Deborah Lynne Williams	05/16/2013
David W. Gilpin	06/04/2013
Thomas H. Clements	06/14/2013
Lamar V. Grudger, III	06/28/2013
Donald H. Bumgardner	08/14/2013
Rosiland T. Grant	08/27/2013
Will H. Lassiter, III	09/11/2013
James Garfield Williams	11/06/2013
Thomasine E. Moore	11/27/2013
Scott B. Spransy	12/16/2013

## **BEFORE THE GRIEVANCE COMMITTEE**

### **Totals for 2013**

Total Grievance Files Opened – 1,205

Total Files Considered by Committee – 1,193

Dismissals – 947

Files dismissed & retained – 12

Files abated - 4

Files Dismissed with Letters of Caution – 26

Files Dismissed with Letters of Warning – 41

Files issued Admonitions – 38

Files issued Reprimands – 26

Files issued Censures – 9

Files issued reciprocal discipline – 3

Files referred to DHC – 81

### **Grievance Totals for January 2013\***

- 324 files were dismissed\*
- 4 files were dismissed and retained
- 0 files were abated
- 2 files were continued
- 2 lawyers were referred to the Lawyers Assistance Program
- 1 lawyer was referred to the Trust Account Management Program
- 4 lawyers received letters of caution
- 12 lawyers received letters of warning
- 10 lawyers received admonitions
- 7 lawyers received reprimands
- 2 lawyers received censures
- 11 lawyers were referred to the Disciplinary Hearing Commission

*\*January 2013 totals include files dismissed in the 4<sup>th</sup> quarter of 2012 that are not included in the 2013 numbers listed.*

### **Grievance Totals for April 2013**

- 220 files were dismissed
- 4 files were dismissed and retained
- 0 files were abated
- 1 file was continued
- 1 lawyer was referred to the Lawyers Assistance Program
- 2 lawyers were referred to the Trust Account Management Program
- 3 lawyers received letters of caution
- 4 lawyers received letters of warning
- 8 lawyers received admonitions
- 4 lawyers received reprimands
- 3 lawyers received censures
- 12 lawyers were referred to the Disciplinary Hearing Commission

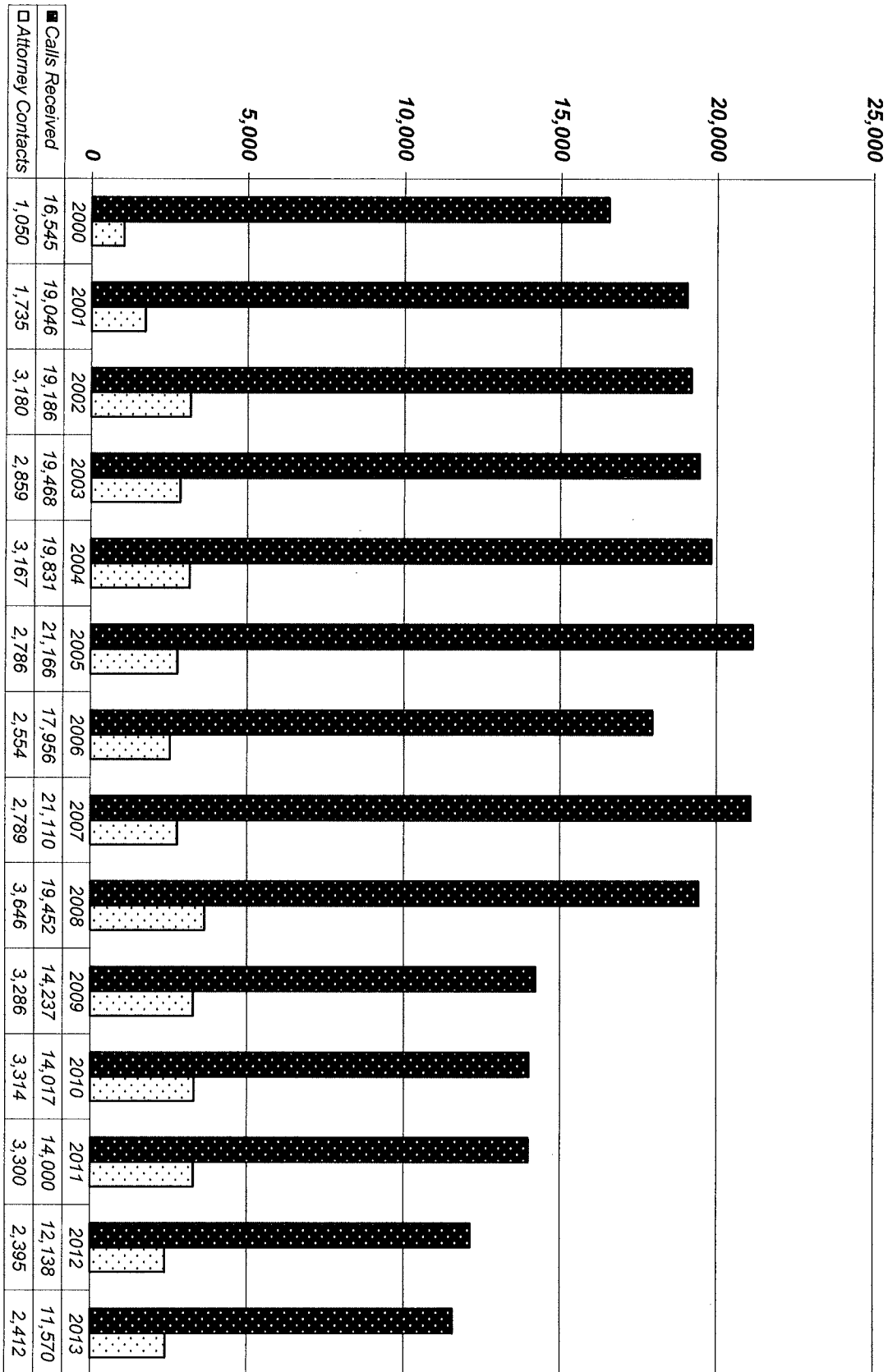
### **Grievance Totals for July 2013**

- 203 files were dismissed
- 2 files were dismissed and retained
- 0 files were abated
- 3 files were continued
- 1 lawyer was referred to the Lawyers Assistance Program
- 0 lawyers were referred to the Trust Account Management Program
- 1 lawyer received reciprocal discipline
- 8 lawyers received letters of caution
- 18 lawyers received letters of warning
- 15 lawyers received admonitions
- 7 lawyers received reprimands
- 4 lawyers received censures
- 7 lawyers were referred to the Disciplinary Hearing Commission

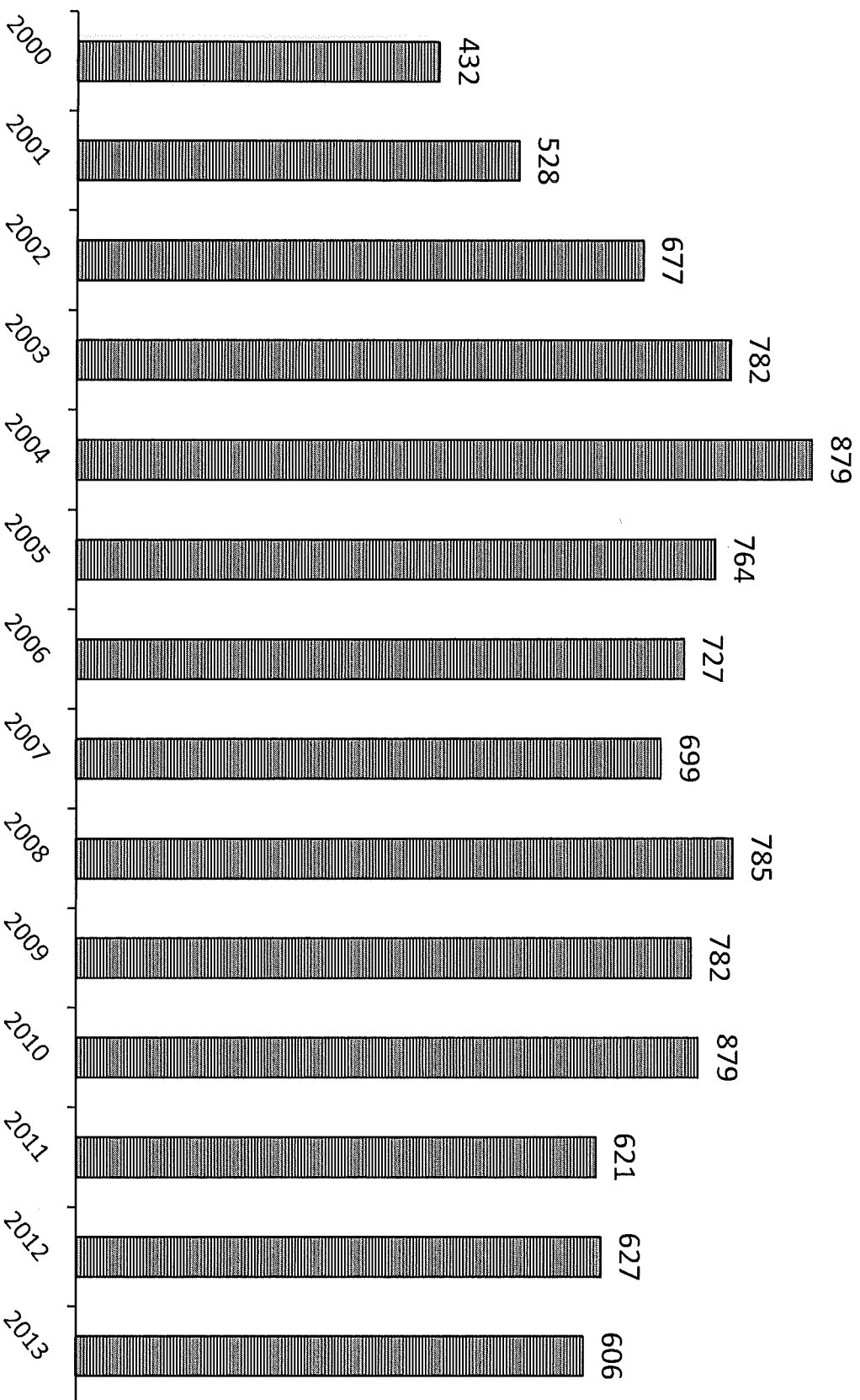
### **Grievance Totals for October 2013**

- 218 files were dismissed
- 5 files were dismissed and retained
- 3 files were abated
- 1 file was continued
- 0 lawyer was referred to the Lawyers Assistance Program
- 0 lawyers were referred to the Trust Account Management Program
- 1 lawyer received reciprocal discipline
- 11 lawyers received letters of caution
- 9 lawyers received letters of warning
- 7 lawyers received admonitions
- 9 lawyers received reprimands
- 2 lawyers received censures
- 11 lawyers were referred to the Disciplinary Hearing Commission

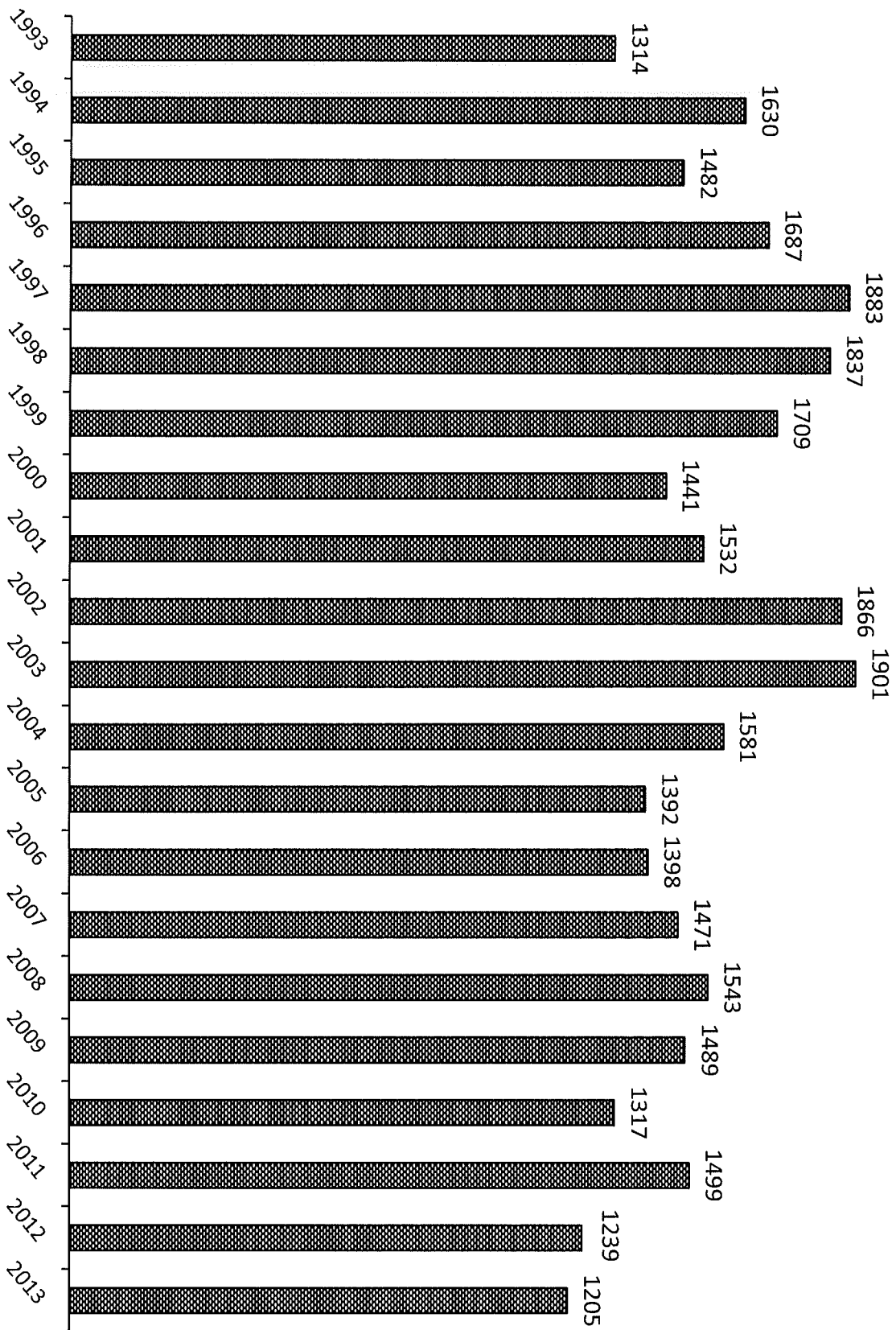
# **ATTORNEY CLIENT ASSISTANCE PROGRAM** **Calls Received and Attorney Contacts** (January - December)



# Fee Dispute Resolution Petitions Filed



# Grievances Filed Annually





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

