

**Report of the North Carolina State Bar
to the North Carolina Bar Association
January 19, 2023**

- **The January Quarterly Meeting of the State Bar Council** is taking place at State Bar Headquarters from Tuesday, January 17, 2023, through Friday, January 20, 2023. On Wednesday evening of the quarterly meeting, the State Bar Council is honored to co-host the NCBA/NCSB joint dinner, at which recipients of the Chief Justice's Professionalism Awards will be honored. We are especially pleased that two of the recipients of the award this year are sitting State Bar Councilors, C. Gordon Brown (18th Judicial District Bar) and Robert (Burt) C. Kemp, III (3rd Judicial District Bar). We are equally pleased that Gordon's wife and Bar Association Past President LeAnn Nease Brown will also receive the award. Thank you, Bar Association staff and leadership, for planning this year's joint dinner.
 - **New Councilors:** We are pleased to welcome eight new councilors to the State Bar Council. One of the new councilors is a district attorney. Seven of the new councilors are in private practice. They come from big firms, small firms, and solo practices. We look forward to their contributions to the work of the Council in 2023.
- **The 2022 Annual Meeting of the State Bar** successfully took place in-person from October 18, 2022, to October 21, 2022, at State Bar Headquarters in downtown Raleigh and at the Crabtree Marriott Hotel also in Raleigh. The traditional Councilors' Dinner, at which retiring councilors and board members were honored, was held on Wednesday night, and the officers were sworn-in by the Chief Justice at a banquet on Thursday night, October 20, 2022.
 - **New Officers:** At the banquet, Marcia (Marci) H. Armstrong of Smithfield was sworn-in by the Chief Justice as president of the State Bar; A. Todd Brown of Charlotte was sworn-in as president-elect; and Matthew W. Smith of Eden was sworn-in as vice president. Darrin Jordan will continue his service to the State Bar and to the Council as immediate past president.
- **Initiatives:**
 - **Overhaul of the State Bar's Program for Regulating CLE Compliance.** Extensive proposed amendments to the rules governing the CLE program were published for comment in 2022 at the request of the State Bar's Board of Continuing Legal Education. The board's objective is to improve and simplify our regulatory program to reduce costs, complexity, and hassle for both the regulator and the regulated. The rule amendments will change fundamental aspects of how the CLE requirements are enforced including the adoption of a longer reporting and compliance cycle and the elimination of the CLE credit hour attendee fee. The CLE Board is currently proposing a two-year reporting and compliance cycle. It is anticipated that proposed rule amendments to this effect will be approved by the

Council at its meeting on January 20, 2023, and that the amended CLE rules will be published in their entirety in the next edition of the *State Bar Journal*. This will permit State Bar members to review all proposed amended rules, appreciate the scope and effect of the revised regulatory scheme, and have one last quarter to make comments or voice concerns. If you have a comment or concern, please write to the State Bar.

- **New Grievance Review Procedure:** Last summer, legislation requiring the State Bar to add a Grievance Review Panel to its procedures for the Grievance Committee became law. Rulemaking to implement the new procedure took place in 2022. Under the new procedure, respondents who are issued public discipline by the Grievance Committee are entitled to request a review by a Grievance Review Panel. The panel may concur with the decision of the Grievance Committee, or it may remand the grievance file to the committee with a recommendation for a different disposition. The Grievance Committee may affirm its prior decision, or it may approve a different disposition of the file. Several respondents requested reviews and the first panels will convene in January.
- **Access to Justice Committee.** The Preamble to the Rules of Professional Conduct emphasizes the enduring responsibility of the profession “to ensure equal access to our system of justice for all those who, because of economic or social barriers, cannot afford or secure adequate legal counsel.” To meet that goal, at the July 2022 Quarterly Meeting, the Council voted to establish a standing committee on access to justice. A rule establishing the standing committee is scheduled to be adopted by the Council at its meeting on January 20, 2023; thereafter, the rule will go to the Chief Justice for final approval which is anticipated. To avoid delaying the committee’s important work, an ad hoc Access to Justice (ATJ) Committee was appointed in 2022 and it held its first meeting on October 19, 2022. Vice President Matthew Smith will chair the committee.
 - **Legal Deserts.** A subcommittee that was previously appointed to study “legal deserts” in North Carolina—places where too few lawyers live and work, leaving unmet legal needs—now reports to the Access to Justice Committee. The subcommittee is currently studying ways that the problem of legal deserts might be addressed. At the subcommittee’s last meeting in December, Maggie Sauer, Director of the North Carolina Office of Rural Health (ORH), explained ORH’s efforts to recruit health providers to rural communities.
 - **Other Areas of Inquiry.** The ATJ Committee is also studying access initiatives in other states and in NC judicial districts to determine which initiatives might be beneficially implemented statewide. On the agenda for the committee’s meeting on January 18, 2022, is an examination of limited scope representation, sometimes referred to as “unbundled legal services,” and whether such representation helps to make legal representation more affordable.
- **Diversity, Equity, and Inclusion.** The diversity, equity, and inclusion initiatives adopted by the Council at the April 2022 Quarterly Meeting continue to be

implemented. In 2023, a consultant will be engaged to perform an audit of the State Bar's policies, procedures, practices, and workforce to assess DEI enhancement opportunities. Voluntary collection of demographic information about members will also be initiated in 2023.

- **Issues Committee:** The Issues Committee will be chaired by Past President Darrin Jordan in 2023. The following topics will be considered by the committee this year:
 - **Random Audits:** The State Bar's program to randomly audit lawyers' trust accounts was initiated in 1985. Since that time, the program has been a powerful tool for enforcing the trust accounting requirements but, more importantly, it has been a powerful tool for educating lawyers on the fiduciary requirements for properly maintaining a trust account. Nevertheless, the program has not been reviewed or updated in its thirty-seven years of existence. Recently, the program was criticized for targeting lawyers in rural communities. This may be a consequence of the process used to randomize the selection of lawyers for audit which is based upon old assumptions about the distribution of lawyers in North Carolina. A complete review of the program for the purpose of updating and improving an already successful program is recommended.
 - **Diversion Programs:** The Lawyer Assistance Program and the Trust Accounting Compliance Program are available to the Grievance Committee as additional ways to respond to professional misconduct. When appropriate, the Grievance Committee can refer a respondent to one of the programs. If the respondent's file is diverted, the respondent has an opportunity for reformation of character and for avoidance of professional discipline. It is recommended that a subcommittee be appointed to study diversion programs, including programs of other lawyer regulatory agencies and of regulatory agencies for other professions (e.g., doctors and accountants), to determine whether the State Bar should invest resources in the creation of another diversion program.
 - **Proposed Study of Facilitating the Preparation of Succession Plans:** It is particularly important for small and solo law practices to have a plan for managing the winddown of the law practice or the transfer of files in the event of the illness or death of the principal(s). Unfortunately, many practitioners, at both small and large firms, fail to prepare a succession plan and, when the principal(s) is no longer able or available to winddown or transfer the practice, the State Bar must step in with the appointment of a trustee. This is an expense to the State Bar but, more significantly, it slows down the process of ensuring active files are properly transferred to new counsel. A study of ways to motivate the preparation, preservation, and possible registration of succession plans for lawyers and law firms is recommended.

- **Legislation:**

- The State Bar continues to pursue the passage of the bill that will permit a gradual increase in State Bar dues from the current cap of \$300 to \$400.
- The State Bar also continues to support efforts to bring the numbering system for prosecutorial districts in line with judicial districts.