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19 Big Spruce Lane
Waynesville, NC 28786
April 5, 2016

Subject: Brad Ferguson - NC Bar Association Status is now "Disability Inactive". What is that?

"If a person who is either appointed or elected to a position of authority, and either abuses that authority or intimidates someone because of that authority, I will get involved and take action." [re: Monroe Miller].

Brad Ferguson holds a public office - he is a lawyer.

I have filed numerous complaints to the North Carolina Bar Association regarding lawyers violating the Rules of Professional Conduct, only to have **all of them** slapped down by this good-ole-boys club [re: www.haywoodtp.net, Interesting Stuff Archives]. Now, out of the blue, the NC Bar Association finally took action on Brad Ferguson, and the status of this local Haywood County Lawyer has changed from "Active" to "Disability Inactive".

What is Disability Inactive?

Brad Ferguson, by the way, shares a law office with Rusty McLean and Lisa Kosir.

Background.

I was minding my own business, attending District Court on 3/28/2016, and Holly Fletcher happened to be on the docket. The Judge was Monica Leslie, the ADA was Jason Arnold, and Holly Fletcher was represented by Bill Jones [re: <http://haywoodtp.net/pubII/160222-15CR26-Nicholson.pdf>]. Two North Carolina Highway Patrol Troopers came in to supply testimony, Michael Holcom (sp?) and Hunter Hooper.

At approximately 9:26 am during the roll call, where various defendants were asked if they were present and who was representing them, one defendant indicated his lawyer was Brad Ferguson. There was a slight flurry in the courtroom, everything came to a stop, that defendant was asked to come up and have his case reassigned to another lawyer. It was stated that Brad Ferguson had some "Issues".

What issues?

I had checked Brad Ferguson's status with the NC Bar Association a couple of days ago. No problem, status was active.

On a whim, (actually, more than a whim, it had been brought to my attention that I now had a reason to re-check Brad Ferguson's status again), and low and behold, it had changed to "Disability Inactive". There was an associated case file, 16 SP 41. I punched it up and there was a five (5) page order from Judge Brad Letts declaring Brad Ferguson "poses a threat of significant potential harm to his clients, to the public, to the profession, and to the administration of justice".

ORDER TO SHOW CAUSE.

This is a damning 12 page document, listing eight (8) counts of nefarious behavior by Brad Ferguson, written by Judge Brad Letts, filed 3/8/2016, all violations of the North Carolina Rules of Professional Conduct.

This resulted in a CONSENT ORDER signed again by Judge Brad Letts filed on 3/31/2016.

This document contains three (3) items:

- ORDER TO SHOW CAUSE
- CONSENT ORDER
- NC Bar lawyer status, accessed on 4/4/2016.

It is not specific as to the specific reason for Brad Ferguson's behavior, which **could be** either "mental illness and/or substance abuse".

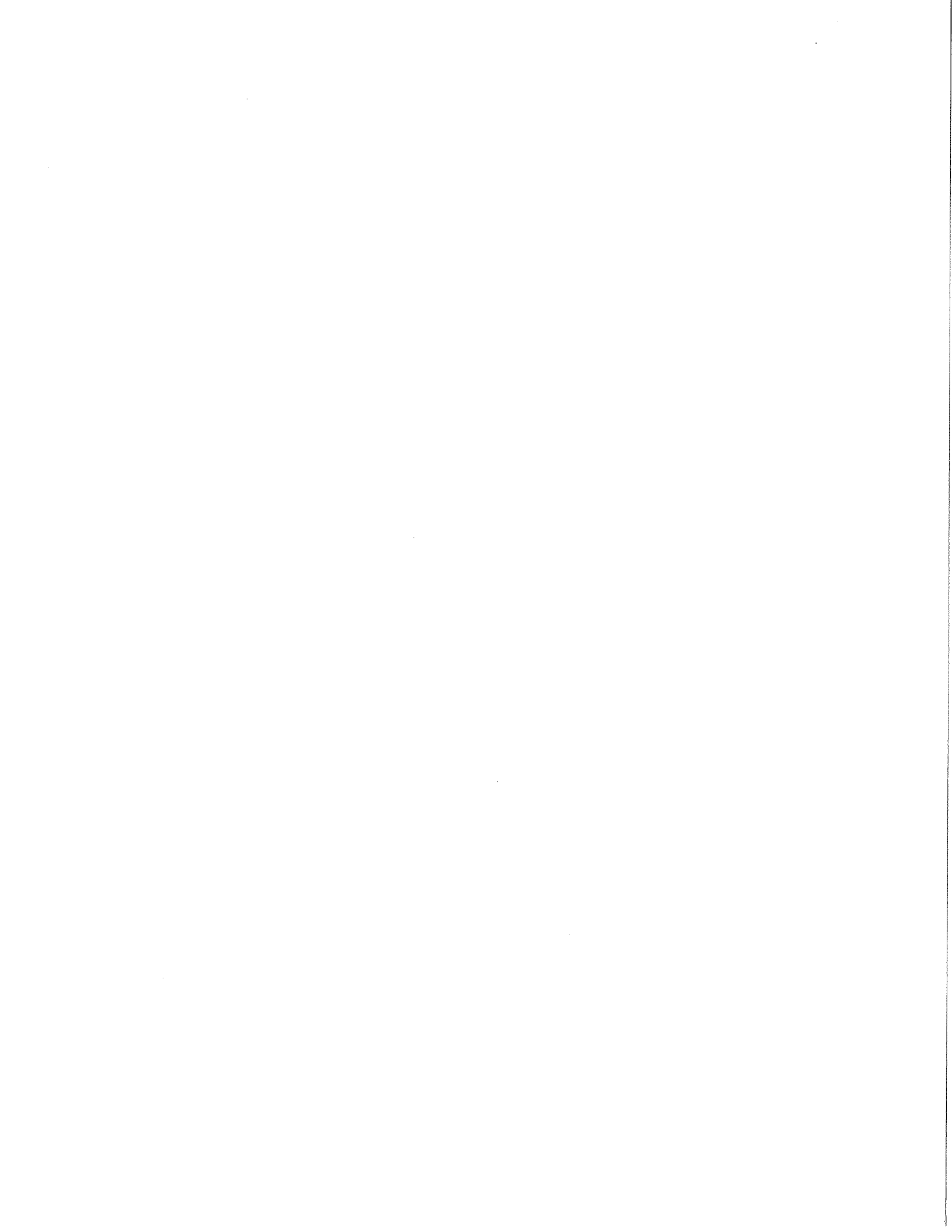
One of the things I picked up on was on page 2 of the ORDER TO SHOW CAUSE, paragraphs number 4 thru 7, "LAP".

What is LAP, or the Lawyer Assistance Program?

Folks, if I had not been attending District Court, minding my own business, on 3/28/2016, I would never have picked up about any "issue" with Brad Ferguson. All of this stuff was/is completely under the radar. In fact, when I went to the Justice Center to pull the case file 16 SP 41, I was initially told that file was confidential, and not available for me to inspect, yet when I went to the back room to inspect another file I had requested to inspect, there was the folder marked 16 SP 41.

Anyway, Haywood County Taxpayers now have reason to rejoice, as another one is off the streets. It only took a Judge with eight (8) counts against this guy to achieve this.

Monroe Miller
Haywood County Taxpayer.



STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

FILED

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION
FILE NO. 16SP41

2016 MAR -8 PM 4:56

HAYWOOD COUNTY, C.S.C.

IN THE MATTER OF THE DISCIPLINE)

BY _____)

Of)

ORDER TO SHOW CAUSE

BRAD HARRISON FERGUSON,)
ATTORNEY.)

TO: Brad Harrison Ferguson, Attorney
1878 Camp Branch Road
Waynesville NC 28786

YOU ARE HEREBY GIVEN NOTICE THAT at 9:30 a.m. on March 24, 2016, a hearing will be held at the Haywood County Courthouse in courtroom 3A to determine whether actions should be taken against you - including the imposition of professional discipline or transfer to disability inactive status - by the Court as a result of your recent conduct within the 30th Judicial District.

The information before the Court raises questions of whether you have violated the North Carolina Rules of Professional Conduct, as more specifically set forth herein; or in the alternative, whether you are presently suffering from a mental or physical condition (which may include but is not limited to mental illness and/or substance abuse) which significantly impairs your professional judgment, performance, or competency as an attorney; or in the alternative, whether you have engaged in conduct which is contemptuous of the court as set forth in N.C. Gen. Stat. Chapter 5A.

A. BACKGROUND INFORMATION

Brad Harrison Ferguson (hereinafter referred to as "Attorney Ferguson") was licensed to practice law in North Carolina on December 30, 2004 and issued North Carolina Bar License # 33256. That since that time Attorney Ferguson has maintained a general practitioner office in Haywood County, located within the 30th Judicial District. Attorney Ferguson has appeared and represented clients before the undersigned on numerous occasions.

B. CONDUCT WHICH MAY SUPPORT IMPOSITION OF PROFESSIONAL DISCIPLINE

The following conduct raises questions of whether you have violated the North Carolina Rules of Professional Conduct or in the alternative, whether you are presently suffering from a mental or physical condition (which may include but is not limited to mental illness and/or substance abuse) which significantly impairs your professional judgment, performance, or competency as an attorney.

COUNT 1

LOSS OF CONSCIOUSNESS IN HAYWOOD SUPERIOR COURT JUNE 15, 2015

1. That during the week of June 15, 2015 at an Administrative Session of criminal court for Haywood County Superior Court, Attorney Ferguson came before the undersigned.
2. During that specific term of court, Attorney Ferguson was representing a client when he suddenly became lightheaded, and briefly lost consciousness for approximately one (1) minute. Contemporaneous, with losing consciousness Attorney Ferguson fell backwards into his chair at the defense table inside the bar in open court.
3. After this occurred, court was immediately recessed and the undersigned met with Attorney Ferguson to discuss his health and well-being. An offer of medical treatment was provided which Attorney Ferguson refused.
4. The undersigned noticed Attorney Ferguson appeared to be disheveled, began sweating profusely, made excuses for his recent tardiness, lack of preparation, and soon became irritable when asked about his personal health. At this hastily convened meeting necessitated by Attorney Ferguson losing consciousness in the courtroom, the undersigned suggested to Attorney Ferguson he must seek treatment for substance abuse and/or mental health treatment.
5. Following this meeting the undersigned informed Attorney Ferguson he was required to contact and work with the Lawyer Assistance Program (LAP).
6. Attorney Ferguson after being referred to LAP, made one phone call to LAP on June 24, 2015, and never contacted them again and never received treatment from LAP.
7. Upon information and belief, Attorney Ferguson never sought nor obtained treatment services from any other provider for substance abuse and/or mental health at any time following his referral to LAP in June, 2015, by the undersigned.
8. If true, this conduct set forth above is in violation of N.C. Gen. Stat. Chapter 5A, Article 1, including without limitation §§5A-11(a) (3) and (6):
9. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.4(c) which prohibits a lawyer from disobeying an obligation under the rules of a tribunal, specifically failing to follow the Court's requirement to work with the LAP.

COUNT 2

**UNPROFESSIONAL BEHAVIOR IN HAYWOOD DOMESTIC RELATIONS COURT
SEPTEMBER 24, 2015**

10. On September 24, 2015 Judge Roy Wijewickrama was presiding over the last day of a four day Domestic Relations term of court in Haywood County. On this particular day the Court was hearing the child custody case of *Reddit v. Reddit* in file number 11 CVD 811.
11. Attorney Bill Jones represented the Plaintiff in this action and Attorney Brad Ferguson represented the Defendant.

12. During the afternoon session of this hearing, a request was made by Attorney Jones to view a set of counseling records involving the minor child at issue in this case. Attorney Jones asserted that Attorney Ferguson had access to a copy of these records. The Court took a recess so Attorney Ferguson could obtain counseling records.
13. While Judge Wijewickrama was in chambers during the recess, Attorney Ferguson was able to retrieve the counseling records at issue. Attorney Ferguson had previously become angry with Attorney Jones over the counseling records.
14. After retrieving the aforementioned records which consisted of a small number of pages, Attorney Ferguson, in an angry and aggressive fashion, approached Attorney Jones near the Clerk's desk in the Courtroom and threw the paperwork at Attorney Jones. Attorney Jones was stunned by Attorney Ferguson's actions and proceeded to verbally confront Attorney Ferguson.
15. At this point Judge Wijewickrama entered the Courtroom to resume the trial and observed Attorney Ferguson berating Attorney Jones in an inappropriate manner.
16. Judge Wijewickrama then told both Attorneys he had heard enough and reminded them it was time to resume the trial.
17. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.5(a)(4)(B), which forbids and prohibits a lawyer from engaging in undignified or discourteous conduct which is degrading to a tribunal; Rule 4.4(a) which prohibits a lawyer in representing a client from using means that have no substantial purpose other than to embarrass or burden a third person, specifically throwing paperwork at Attorney Jones in the Courtroom; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

COUNT 3

UNPROFESSIONAL CONDUCT WITH COUNSEL FOR HAYWOOD DSS

18. On February 1, 2016, Rachael Hawes, Attorney for Haywood County Department of Health and Human Services Agency, was in her office working at approximately 4:00 p.m. She received a telephone call from the front desk stating that Attorney Ferguson was at the front desk and wanted to speak with her.
19. Attorney Hawes was unable to meet with Attorney Ferguson at that time as she was working on custody petitions and it would be several hours before she would finish. Attorney Ferguson stated he was not leaving the Department of Health and Human Services Agency until he was able to speak with Attorney Hawes. At 5:00 p.m. the receptionist told Attorney Ferguson she was going to have to turn the lights off and lock the doors. At that time Attorney Ferguson left the building and was observed walking around the parking lot.
20. Around 6:00 p.m. Attorney Hawes completed her work and went out the main entrance door to see if she could locate Attorney Ferguson. She did not notice him outside the main entrance door and went back inside to exit through the employee side door. Attorney Hawes exited the employee side door and was taking a suitcase of files with her. The suitcase was noisy as it was dragged across the pavement. Attorney Hawes noticed a gold SUV and observed Attorney Ferguson in the driver's seat sleeping.

21. It was noticeably unusual for someone to be asleep at the wheel of a vehicle at 6 p.m.
22. Attorney Hawes proceeded towards the car of Attorney Ferguson at which time he began to sit up. It took Attorney Ferguson several seconds to roll the automatic window down and, after initial contact, Attorney Ferguson appeared groggy and was noticed to be wearing gym clothing. Attorney Hawes noted a large sore or wound on the left side of his neck, it was several inches in length and diameter which strangely was not discolored at all. The explanation for the unique appearance was that the sore was covered with makeup.
23. During their conversation Attorney Ferguson's grogginess improved.
24. Attorney Ferguson was extremely agitated about an open investigation the Agency was working on and as the conversation continued Attorney Ferguson made accusations against a social worker and her husband that Attorney Hawes knew to be completely unfounded.
25. This interaction was out of character for Attorney Ferguson as compared with the prior interactions between him and Attorney Hawes over the last six years. Attorney Hawes, during her career both in the District Attorney's Office and the Department of Health and Human Services Agency, has never had an attorney lay in wait, after hours, to discuss a case at her office.
26. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 4.4(a) which prohibits a lawyer in representing a client from using means that have no substantial purpose other than to embarrass or burden a third person, specifically waiting after hours for Attorney Hawes to confront her about his client's case.

COUNT 4
DISRUPTIVE CONDUCT AT THE HAYWOOD MAGISTRATE'S OFFICE
ON FEBRUARY 18, 2016

27. Traci Henline is a magistrate in Haywood County. Magistrate Henline was on duty at the Haywood County detention center on February 18, 2016.
28. While on duty and performing her tasks at around 6 p.m., Magistrate Henline was on the phone dealing with a defendant brought in by law enforcement for processing regarding a DWI. While speaking on the phone in her office, the intercom began ringing and the door knob was continuously being manipulated.
29. The intercom continued to ring without interruption. The door to her office began to be jerked and rattled causing a disruption to Magistrate Henline.
30. After completing the telephone call, Magistrate Henline opened the door and discovered Attorney Ferguson. She inquired whether she could be of assistance. Attorney Ferguson was upset and explained he had been waiting for two hours with a client and needed someone to provide service of process on his client for the Chapter 50B complaint and summons.

31. Magistrate Henline explained it was not the function of the magistrates to serve process, the magistrates did not direct who and when process was served but she would be happy to call the Sheriff's office and ask someone to come over and assist Attorney Ferguson and his client.
32. During this encounter Attorney Ferguson was loud, argumentative and disruptive to the lawful efforts Magistrate Henline was discharging in her duties as the magistrate working in Haywood County on February 18, 2016.
33. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.5(a)(4)(B), which forbids and prohibits a lawyer from engaging in undignified or discourteous conduct which is degrading to a tribunal; Rule 4.4(a) which prohibits a lawyer in representing a client from using means that have no substantial purpose other than to embarrass or burden a third person, specifically disrupting Magistrate Henline in the discharge of her duties; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

COUNT 5

**FAILURE TO APPEAR AND CONDUCT DISREPECTING THE COURT IN
HAYWOOD COUNTY FEBRUARY 23, 2016**

34. On February 23, 2016 District Court Judge Roy Wijewickrama was presiding over Traffic Court in Haywood County, NC. Assistant District Attorney Jeff Jones was representing the State of North Carolina.
35. ADA Jones called the traffic docket at approximately 9:00am. During the calendar call Defendant Bryan Keith Crowe appeared on the docket. Mr. Crowe was charged with Driving While Impaired and Misdemeanor Child Abuse in 15 CR 52304 and Failure to Secure a Passenger Under sixteen years of age and Operating a Vehicle with No Operators License in 15 CR 000675. This court date was the sixth setting for this case. Mr. Crowe was present for calendar call. The Court originally appointed Attorney Brad Ferguson to represent Mr. Crowe on August 11, 2015. Attorney Ferguson was not present during calendar call.
36. Given Attorney Ferguson's absence at calendar call, and contrary to the general practice of attorneys in this jurisdiction who are not present at calendar call, Attorney Ferguson did not notify the Court, the District Attorney's Office, or the Clerk of Court as to his potential Court conflicts for the day or of his estimated time of arrival.
37. Prior to the lunch recess at approximately 12:15pm, ADA Jones indicated to the Court that Mr. Crowe's case was potentially for trial. Furthermore, ADA Jones informed the Court that his office had not received any information as to Attorney Ferguson's whereabouts or estimated time of arrival. The Court took its lunch recess at approximately 12:30pm and resumed Court at approximately 1:45pm. After resuming Court Judge Wijewickrama made an inquiry of ADA Jones as to which cases were for trial. ADA Jones indicated to the Court that certain cases originally called for trial were going to be disposed of by way of guilty pleas. ADA Jones then proceeded to inform the Court that the District Attorney's Office had made several attempts to reach Attorney Ferguson and that these attempts were unsuccessful. Judge Wijewickrama then asked Mr. Crowe if he had made contact with Attorney Ferguson in order to determine Attorney Ferguson's estimated time of arrival. Mr. Crowe indicated that he had not spoken with Attorney Ferguson since the last Court date.

38. ADA Jones and his Victim/Witness Coordinator made another attempt to contact Attorney Ferguson which was unsuccessful. At this point, Judge Wijewickrama stepped off the bench and returned to the District Court Judge's Office in order to attempt to call Attorney Ferguson himself. Judge Wijewickrama attempted to contact Attorney Ferguson by calling Attorney Ferguson's mobile phone and was unsuccessful with the call going straight to voicemail.
39. Judge Wijewickrama then returned to the bench and made another inquiry of ADA Jones as to whether he or his Victim/Witness Coordinator, Tracy Russell were successful in reaching Attorney Ferguson either at his office or on his mobile phone. ADA Jones indicated that they were not able to reach Attorney Ferguson.
40. Given the recent conduct and appearance of Attorney Ferguson, Judge Wijewickrama requested Waynesville Police Officer Michael Blaylock conduct a welfare check on Attorney Ferguson at his Waynesville home. Officer Blaylock was present in Court on this date for unrelated traffic cases and proceeded to Attorney Ferguson's Waynesville home at approximately 2:15pm.
41. At approximately 2:30pm Victim/Witness Coordinator, Tracy Russell with the District Attorney's Office successfully make contact with Attorney Ferguson's paralegal. Based upon a brief series of text messages between Ms. Russell and Attorney Ferguson's paralegal, conflicting and contradictory information was provided to Ms. Russell regarding Attorney Ferguson.
42. At approximately 2:50pm Officer Blaylock returned to the Courtroom. Officer Blaylock informed Judge Wijewickrama he did conduct the welfare check as requested by the Court. Officer Blaylock indicated he knocked on Attorney Ferguson's door several times with no answer. He then proceeded to knock on Attorney Ferguson's front window. Officer Blaylock heard a dog barking in the home and heard a voice from inside the home shouting. Eventually, Attorney Ferguson opened the door and questioned Officer Blaylock as to why he was at Attorney Ferguson's home. Officer Blaylock informed Attorney Ferguson that the District Court Judge presiding in Haywood County Traffic Court requested that he conduct a welfare check of Attorney Ferguson and inform him that he had a client on the docket waiting for his case to be heard. Attorney Ferguson appeared to be infuriated and in an angry tone demanded to know which Judge sent Officer Blaylock to his residence. Officer Blaylock identified Judge Wijewickrama as the presiding Judge who had concern over the welfare of Attorney Ferguson. Attorney Ferguson then told Officer Blaylock to tell Judge Wijewickrama that he is sick and would send in a motion to continue his case concluding the interaction by slamming his front door shut. Officer Blaylock noted that in addition to being highly agitated, Attorney Ferguson was sweating profusely.
43. Judge Wijewickrama then informed Mr. Crowe that the Court had learned that Attorney Ferguson was sick and unable to come to Court and that his case would have to be continued.
44. At this point, ADA Jones proceeded to handle other guilty pleas of defendants on the calendar.
45. At approximately 3:15pm while Court was still in session, Attorney Ferguson came into the Courtroom while Judge Wijewickrama was still seated on the bench. Attorney Ferguson appeared to be highly agitated and angry.

46. Judge Wijewickrama then requested the presence of both Attorney Ferguson and ADA Jones in the jury room. Judge Wijewickrama, Attorney Ferguson, and ADA Jones then exited the Courtroom through the secured Judge's entrance and proceeded to the jury room in the secured area.
47. Upon being seated in the jury room, Attorney Ferguson made it clear to Judge Wijewickrama and ADA Jones that he was highly dissatisfied with the Court's action in sending an officer to his residence to conduct a welfare check. Attorney Ferguson began questioning Judge Wijewickrama in an angry tone as to how often he sends law enforcement officers to the homes of attorneys to conduct welfare checks. Attorney Ferguson made it clear to the Court he believed the Court was out of line.
48. Judge Wijewickrama then asked Attorney Ferguson why he was not in Court and, in the alternative, why he did not notify the Court or the District Attorney's Office of any potential conflict or ailment which would prevent him from appearing in Court. Judge Wijewickrama reminded Attorney Ferguson that Mr. Crowe's case had appeared on the calendar six times. Attorney Ferguson provided no reasonable explanation for his conduct.
49. Judge Wijewickrama then told Attorney Ferguson he simply did not look well and that he was concerned about the health and well-being of Attorney Ferguson. Attorney Ferguson proceeded to interrupt Judge Wijewickrama and began shouting at Judge Wijewickrama. Judge Wijewickrama reiterated to Attorney Ferguson that his sole intent was to check on Attorney Ferguson's well-being. Attorney Ferguson then apologized for not appearing in Court and notifying the Court of his whereabouts. ADA Jones then gave Attorney Ferguson Mr. Crowe's new Court date. Throughout this interaction with Attorney Ferguson, Judge Wijewickrama noticed several sores on Attorney Ferguson's face.
50. Following the meeting in the jury room Judge Wijewickrama, Attorney Ferguson, and ADA Jones left the jury room. Judge Wijewickrama and ADA Jones went back to the Courtroom while Attorney Ferguson indicated he would exit via the hallway through the door adjacent to the District Court Judges office.
51. Judge Wijewickrama then returned to the bench to complete the court session.
52. Approximately three minutes after Judge Wijewickrama returned to the bench Attorney Ferguson returned to the Courtroom. At the bench in a very aggressive manner Attorney Ferguson questioned why Attorney David Brown was in the Judge's Chambers. Judge Wijewickrama indicated to Attorney Ferguson he had no knowledge of the whereabouts of Attorney Brown. Attorney Ferguson then accused Judge Wijewickrama of having Attorney David Brown summoned to his office so he could question Attorney David Brown about Attorney Ferguson. Judge Wijewickrama reminded Attorney Ferguson that as a matter of course numerous attorneys stop by the District Court Judge's Office daily for official business and that Attorney Brown may be in the District Court Judge's office to speak with Judge Tessa Sellers who was presiding over Haywood County Domestic Relations Court on that particular day.
53. Throughout this second interaction, Attorney Ferguson became increasingly agitated and insinuated Judge Wijewickrama was spying on Attorney Ferguson.

54. When court finished, Judge Wijewickrama inquired of both Judge Sellers and Ms. McGuinness, Judicial Assistant for the District Court Judges, as to whether Attorney David Brown had been in the District Court Judge's Office. Judge Sellers indicated that Attorney David Brown along with his law partner Sam Hyde did in fact visit the District Court Judge's Office in order to speak with her regarding a Show Cause Motion in a pending civil case in a matter unrelated to any case before Judge Wijewickrama.
55. If true, this conduct set forth above is in violation of N.C. Gen. Stat. Chapter 5A, Article 1, including without limitation §§5A-11(a)(1), (2), (6) and (7).
56. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.4(c) which forbids a lawyer to disobey an obligation under the rules of a tribunal, specifically his obligation to appear in court for his client or otherwise notify the court of his inability to appear; Rule 3.5(a)(4)(B), which forbids and prohibits a lawyer from engaging in undignified or discourteous conduct which is degrading to a tribunal; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

COUNT 6

FAILURE TO APPEAR JACKSON DOMESTIC COURT FEBRUARY 29, 2016

57. The Honorable Monica H. Leslie presided over the Jackson County Domestic Relations/Non-Jury session scheduled Monday, February 29th –Thursday, March 3, 2016. During this session Attorney Ferguson had two cases in which he represented individuals.
58. The first matter which appeared on the electronic calendar call was Jackson County file 13 CVD 641 *Sellers v Sellers*, Attorney Ferguson represents the defendant and this matter was calendared for an order due.
59. The second matter appearing on the calendar was Jackson County file 15 CVD 120 *Rogerson v. Messer*. Attorney Ferguson represents the plaintiff, the defendant was appearing *pro se* and this case was scheduled to be heard on Monday, February 29th at the 9:00 a.m. calendar call for status conference and possible hearing.
60. On the morning of Monday, February 29th Judge Leslie received a handwritten fax from Attorney Ferguson's office requesting all his matters be held open as he was scheduled to be in Haywood County Domestic Relations Court with District Court Judge Kristina Earwood.
61. At the close of the session on Thursday, March 3, 2016 Judge Leslie had not received any additional information as to Attorney Ferguson's court conflicts. Attorney Ferguson did not appear at any time in Jackson County during Judge Leslie's four day Domestic Relations/Non-Jury session.
62. Judge Leslie reviewed Jackson County file 15 CVD 120 *Rogerson v. Messer* on the last day of her Domestic Relations/Non-Jury session.
63. At the previous setting in 15 CVD 120 Attorney Ferguson appeared before Judge Kristina Earwood and requested a continuance of the Ex parte Custody Order. Judge Earwood granted the continuance and set the Ex parte Custody Order on Judge Leslie's February 29, 2016

Domestic Relations/Non-Jury session with a note that was the last continuance and it was not to be continued again.

64. After a thorough review of the file Judge Leslie determined the Ex parte Custody Order had been pending for an entire year and dismissed the Ex parte Custody Order and the custody action remains pending.
65. If true, this conduct set forth above is in violation of N.C. Gen. Stat. Chapter 5A, Article 1, including without limitation §§5A-11(a)(1), (2), (3) and (7).
66. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.2 which requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of his client; Rule 3.4(c) which forbids a lawyer to disobey an obligation under the rules of a tribunal, specifically his obligation to appear in court for his client or otherwise notify the court of his inability to appear; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

COUNT 7

FAILURE TO APPEAR HAYWOOD TRAFFIC COURT MARCH 1, 2016

67. On March 1, 2016 Chief District Court Judge Rick Walker was presiding over Traffic Court in Haywood County, NC. Assistant District Attorney Kaleb Wingate was representing the State of North Carolina.
68. During this particular session Attorney Ferguson represented defendant David Buchanan in Haywood county file 15 CR 50073 which was on for sentencing on a Driving While Impaired.
69. The defendant was present all day in court. Attorney Ferguson was reported to have been in the courtroom early that morning and left sometime before 10:30 a.m.
70. The defendant remained in the courtroom at all times during the day.
71. As the day was coming to a close the only remaining issue on the calendar was Attorney Ferguson's client, Mr. David Buchanan.
72. At approximately 5:00 p.m. Attorney Ferguson faxed a Motion to Continue the defendant's Driving While Impaired Sentencing. The State objected to the continuance and the continuance was denied by Judge Walker.
73. Assistant District Attorney Kaleb Wingate communicated by telephone to Attorney Ferguson that the court denied the motion to continue. Judge Walker observed ADA Wingate while talking on the telephone and noticed the communication between ADA Wingate and Attorney Ferguson appeared somewhat heated.
74. Attorney Ferguson relayed through ADA Wingate that he was on his way to court. Their conversation was at approximately 5:00 p.m.

75. By 5:15 p.m. the court had completely concluded other business and was waiting only for Attorney Ferguson's presence. The sole remaining individuals in the courtroom were the Judge, Clerk, ADA, Victim/Witness Coordinator, Probation Officer, Community Service Officer, Bailiffs, the defendant, and a support person for the defendant.
76. ADA Wingate telephoned Attorney Ferguson again around 5:15 p.m. for an update as to his status. Attorney Ferguson informed the court that he was approximately ½ mile from the courthouse and would be there as soon as possible.
77. At 5:35 p.m. Attorney Ferguson had still not shown up for the Driving While Impaired sentencing. At that time ADA Wingate made yet another telephone call to Attorney Ferguson to obtain an update as to his location.
78. During this telephone communication Attorney Ferguson requested ADA Wingate inform Judge Walker that Attorney Ferguson would not be able to come to court as he was having difficulty with a staph infection and his face was bleeding.
79. At 5:40 p.m. the Haywood County Sheriff's bailiffs' office telephoned the courtroom and stated that Attorney Ferguson was parked across from the Courthouse and was seated in his car with the driver's door partially opened and stated he had been parked there for about 15 minutes.
80. Judge Walker requested the bailiff's do a welfare check on Attorney Ferguson.
81. During this time Attorney Ferguson's client, Mr. Buchanan, remained in the courtroom and expressed his wish to have the sentencing completed that day so he would not have to miss further work days.
82. The Bailiff completed the welfare check on Attorney Ferguson and noted he was seated in the driver's seat with the door partially opened. When they approached the vehicle Attorney Ferguson was blotting his face with a tissue to absorb the blood.
83. The Haywood County Bailiff's Office informed Judge Walker of their welfare check and at that time Judge Walker decided to continue David Buchanan's Driving While Impaired sentencing until the next day, March 2, 2016 at 8:30 a.m. to accommodate Mr. Buchanan's work schedule.
84. On March 2, 2016 at 8:30 a.m. the defendant, David Buchanan, was present in the courtroom prepared to proceed on his sentencing hearing.
85. Attorney Ferguson made no appearance in the courtroom before Judge Walker, however, Attorney Ferguson called the District Court Judges' Office around 8:55 a.m. and requested access to Judge Walker's chambers to speak with Judge Walker outside the courtroom.
86. Judge Walker was unable to speak with Attorney Ferguson in chambers as he was busy, but did express to Attorney Ferguson that he would speak with him in the courtroom at 9:00 a.m.
87. At 9:00 a.m. Judge Walker proceeded to the courtroom and Attorney Ferguson was not present in the courtroom.

88. Administrative Law Judge, David F. Sutton informed Judge Walker that Attorney Ferguson was in the hallway and requested a continuance of all his cases on the calendar.
89. Judge Walker denied Attorney Ferguson's motions to continue and asked Judge Sutton to have Attorney Ferguson come into the courtroom to handle his cases.
90. Attorney Russell L. McLean, III came into the courtroom and informed Judge Walker that Attorney Ferguson was not in a condition to represent clients and Attorney McLean was working to assist Attorney Ferguson with medical treatment for his staph infection.
91. Judge Walker reassigned all Attorney Ferguson's appointed clients to other counsel and continued Attorney Ferguson's retained clients to other court dates.
92. If true, this conduct set forth above is in violation of N.C. Gen. Stat. Chapter 5A, Article 1, including without limitation §§5A-11(a)(1), (3)(6) and (7).
93. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.2 which requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of his client; Rule 3.4(c) which forbids a lawyer to disobey an obligation under the rules of a tribunal, specifically his obligation to appear in court for his client or otherwise notify the court of his inability to appear; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

COUNT 8

HAYWOOD CRIMINAL COURT MARCH 2, 2016

94. On March 2, 2016 Chief District Court Judge Rick Walker was presiding over Criminal Court in Haywood County, NC.
95. The undersigned adopts and incorporates the allegations contained within the above Count 7 as if more fully set forth herein in this Count.
96. Michael Phillips had retained Attorney Ferguson on the Haywood County Other Calendar for March 2, 2016. Michael Phillips has Haywood County file nos. 15 CR 54290 (Misdemeanor Child Abuse) 15 CR 54291 (Assault on a Female); 15 CR 54366 (Domestic Violence Protective Order Violation); 15 CR 54480 (Domestic Violence Protective Order Violation); 15 CR 54464 (Domestic Violence Protective Order Violation). Michael Phillips also had two separate Returns on Domestic Violence Ex parte Orders, one in which he was the defendant and the other in which he is the plaintiff.
97. These matters had been previously set for 2:00 p.m. by the District Attorney's Office because arrangements had been made with Raleigh to have remote testimony equipment brought for use during trial so that the minor child would be able to testify from a different room. The District Attorney and Clerk sought and obtained video and audio equipment used for remote testimony of a child. The equipment is provided by AOC after requesting a ticket by calling the AOC Helpdesk at 919-890-2407. On this occasion the equipment was brought from Raleigh for use by the parties.


98. Because of Attorney Ferguson's condition, as more fully set forth hereinabove, on March 2, 2016, these matters were unable to be heard and defendant Phillips was notified in court that these cases had been continued to March 15, 2016 and would be heard at that time regardless of counsel.
99. If true, this conduct set forth above is in violation of N.C. Gen. Stat. Chapter 5A, Article 1, including without limitation §§5A-11(a)(1) and (6).
100. If true, this conduct is in violation of the North Carolina Rules of Professional Conduct for Attorneys, including without limitation Rule 3.2 which requires a lawyer to make reasonable efforts to expedite litigation consistent with the interests of his client; Rule 3.4(c) which forbids a lawyer to disobey an obligation under the rules of a tribunal, specifically his obligation to appear in court for his client or otherwise notify the court of his inability to appear; and Rule 8.4(d) which prohibits conduct prejudicial to the administration of justice.

C. HEARING ON ORDER TO SHOW CAUSE

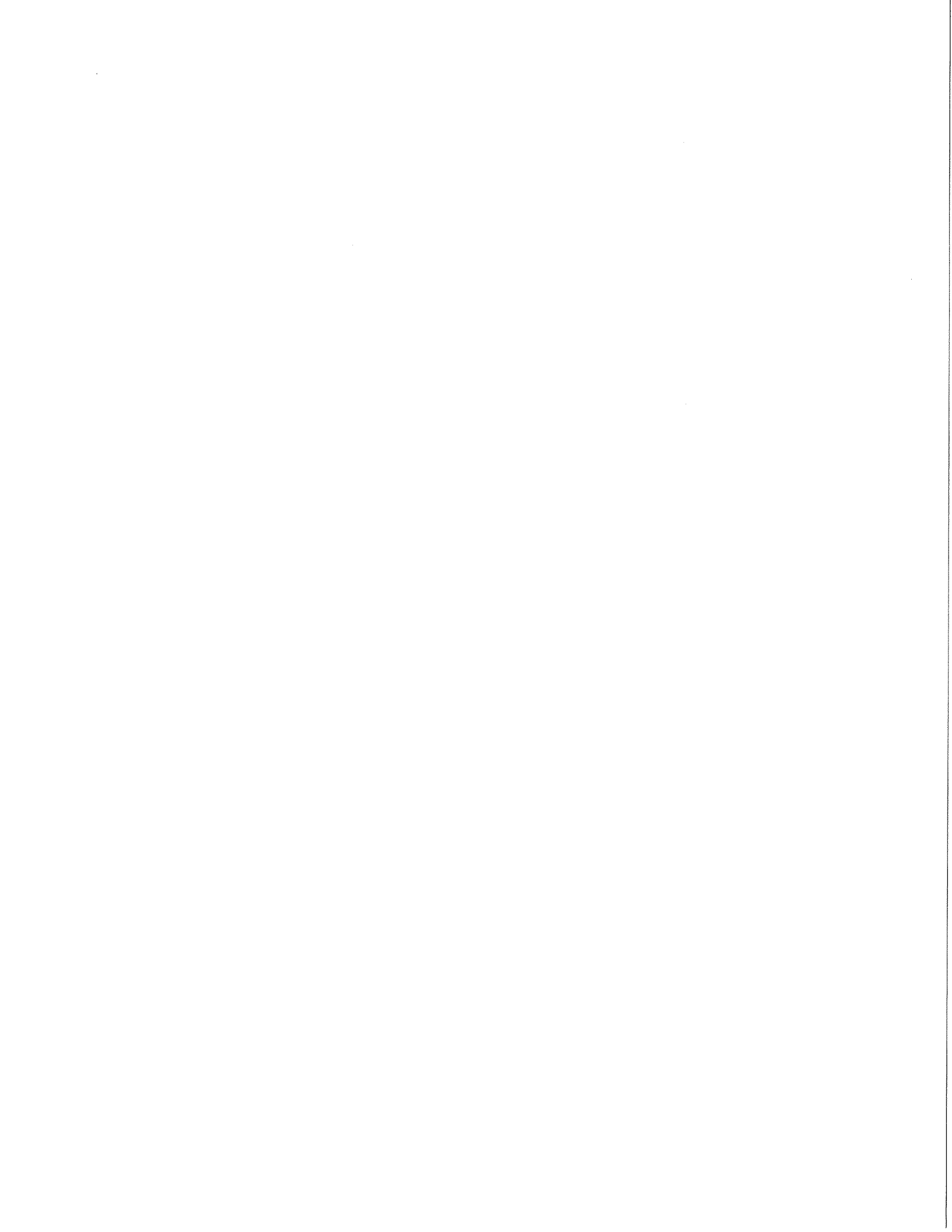
101. The Court hereby exercises its inherent authority to convene a hearing at the date and time contained herein to determine whether you should be disciplined or, in the alternative, whether you are presently suffering from a mental or physical condition (which may include but is not limited to mental illness and/or substance abuse) which significantly impairs your professional judgment, performance, or competency as an attorney.
102. The violations of N.C. Gen. Stat. Chapter 5A are shown herein above as examples of unprofessional behavior and not as a means of a criminal prosecution based on such violations.
103. The North Carolina State Bar is hereby appointed and given full authority to gather and present evidence in support of the matters alleged herein. The Office of the District Attorney for the 30th Prosecutorial District shall assist the North Carolina State Bar in its role in any manner needed including, but not limited to, the issuance of subpoenas, the organization of witness and the use of resources required for trial preparation and trial.

YOU AND YOUR ATTORNEY SHALL BE PRESENT AT THE HEARING ON MARCH 24, 2016 AT 9:30 A.M. IN COURTROOM 3A OF THE HAYWOOD COUNTY COURTHOUSE AND AT THE HEARING YOU WILL BE HEARD. You may present any evidence or contention you have concerning whether you engaged in the alleged misconduct set out above or are suffering from a disabling condition and, if so, whether discipline should be imposed for any violations found to have occurred or whether you should be transferred to disability inactive status with the North Carolina State Bar.

This the 8th day of March, 2016.



Bradley B. Letts
Senior Resident Superior Court Judge
Judicial District 30B



STATE OF NORTH CAROLINA
HAYWOOD COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
BEFORE THE SENIOR RESIDENT
SUPERIOR COURT JUDGE OF THE
30B JUDICIAL DISTRICT
16 SP 41

IN RE: BRAD HARRISON FERGUSON,
Attorney at Law

)
)
)
)
)

CONSENT
ORDER

BY

HAYWOOD COUNTY, C.S.C.

2016 MAR 31 PM 1:24

FILED

THIS CAUSE coming before the Senior Resident Superior Court Judge of the 30B Judicial District upon consent of the North Carolina State Bar and Respondent, Brad Harrison Ferguson. The North Carolina State Bar is represented by A. Root Edmonson and Respondent is represented by J. Frank Lay. Pursuant to N.C. Gen. Stat. § 84-28(j) and this Court's inherent authority over attorneys, the Court makes the following:

FINDINGS OF FACT

1. Brad Harrison Ferguson ("Ferguson") was licensed to practice law on December 30, 2004.
2. Since being licensed, Ferguson has practiced law in Haywood County, NC.
3. On March 8, 2016, this Court issued an Order to Show Cause for Ferguson to show cause why he should not be transferred to disability inactive status or disciplined for conduct detailed in the Order. Ferguson was served with the Order to Show Cause on March 8, 2016.
4. The Order to Show Cause is currently scheduled to be heard on March 24, 2016 in Haywood County Superior Court.
5. Ferguson, with the advice of Counsel, consents to his transfer to disability inactive status and shall not practice law in North Carolina until he provides proof to the Court of his compliance with the conditions imposed herein.

BASED UPON THE FOREGOING FINDINGS OF FACT, the undersigned makes the following:

CONCLUSIONS OF LAW

1. The Court has jurisdiction of this cause pursuant to N.C. Gen. Stat. § 84-28(g) & (j) and pursuant to its inherent authority over attorneys.

2. Due to Ferguson's inability to attend court to handle his clients' matters, his continuing to practice law poses a threat of significant potential harm to his clients, to the public, to the profession, and to the administration of justice.

3. It is in the best interest of Ferguson's clients, the public, the profession and the administration of justice that Ferguson be transferred to disability inactive status until he provides proof to the Court of his compliance with the conditions imposed herein.

THE COURT THEREFORE ORDERS THAT:

1. Brad Harrison Ferguson is hereby transferred to disability inactive status and shall not practice law in North Carolina until reinstated by the Court.

2. Ferguson may petition the Court for a hearing to determine whether he should be reinstated from disability inactive status once he has provided proof that he has completed the following:

- a. Ferguson has obtained a substance abuse assessment and has completed all recommended treatment, including any recommendation for inpatient treatment;
- b. Ferguson has obtained a complete physical examination from a medical doctor, including all appropriate blood work, and has provided the Court a complete report from the physician as to the state of his health.
- c. Ferguson has obtained weekly urine or blood tests and has provided the Court with at least 4 weeks of drug screen reports that are free from the presence of any illicit controlled substances.
- d. Ferguson has obtained a mental health evaluation from an appropriate agency and provided the Court with a copy of the report.

3. To be reinstated, Ferguson must show by clear and convincing evidence that he does not suffer from a mental or physical condition (which may include but is not limited to mental illness and/or substance abuse) which significantly impairs his professional judgment, performance, or competency as an attorney.

4. The Office of Counsel of the North Carolina State Bar should be served with a copy of any filing and notified of any hearing relating to this matter.

5. This cause is retained for further orders of this Court.

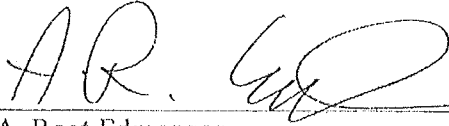
This the 31st day of March, 2016.

B. B. Letts

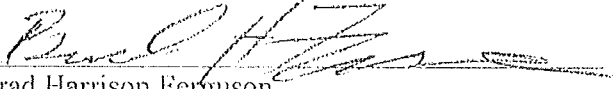
Bradley B. Letts
Senior Resident Superior Court Judge
30B Judicial District

IN RE: BRAD HARRISON FERGUSON
Consent Order
Haywood County
16 SP 41

CONSENTED TO:



A. Root Edmonson
Deputy Counsel
North Carolina State Bar

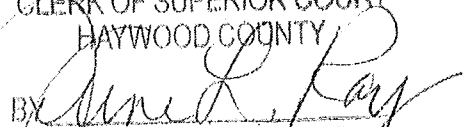


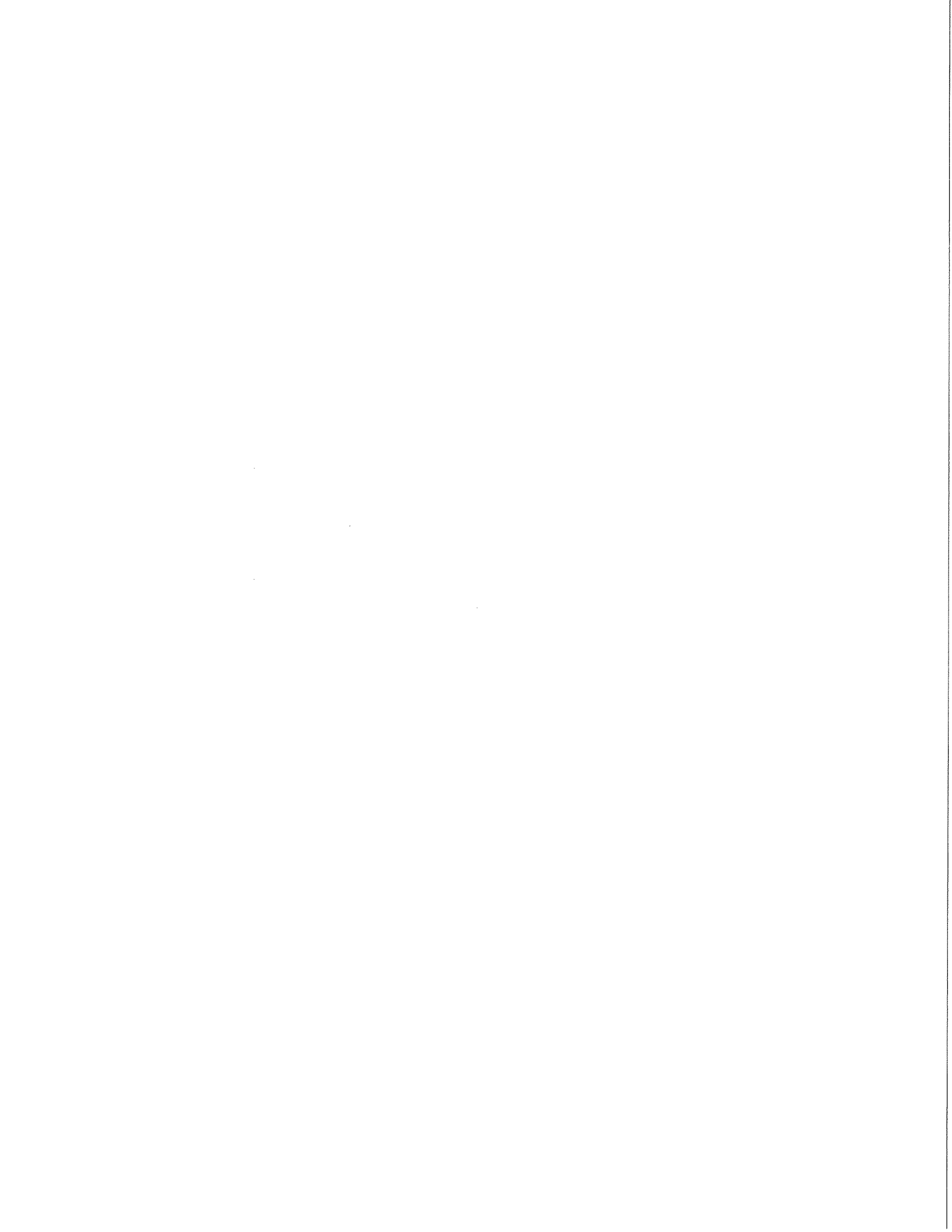
Brad Harrison Ferguson
Respondent



J. Frank Lay
Counsel for Brad Harrison Ferguson

A TRUE COPY
CLERK OF SUPERIOR COURT
HAYWOOD COUNTY

BY 
Assistant Deputy, Clerk Superior Court





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ID 33256
 Name Mr. Brad Harrison Ferguson
 Address 1878 Camp Branch Road
 City Waynesville
 State NC
 ZIP Code 28786
 Country USA
 Work Phone 828-452-1655
 Fax 828-246-0788
 License Date 12/30/2004
 Status **Disability Inactive**
 Status Definition An order has been entered concluding that the lawyer suffers from either a mental or physical condition which significantly impairs the lawyer's professional judgment, performance, or competence. The lawyer is not eligible to practice law in North Carolina.

View DHC Number Case Number

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THE NORTH CAROLINA STATE BAR
217 E. Edenton Street, Raleigh, NC 27611 - 919-828-4620