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Key points:

- North Carolina attorney Alan Phillips filed a good-faith complaint against several N.C. State Bar attorneys, alleging serious misconduct/ethical violations on their part. Phillips joins several organizations around the country that have made similar allegations.
- Phillips is being sued by the N.C. State Bar to force him to hand over hundreds of private files of clients who reside throughout the country, which has national implications for client privacy.
- According to Phillips, the State Bar attorneys are unlawfully suppressing complaints against themselves in violation of conflict-of-interest rules, while pursuing a dubious investigative lawsuit against him.
- A court order from Phillips's Feb. 7 hearing in Wake County Superior Court indicates that State Bar attorneys *can* investigate themselves.

FOR IMMEDIATE RELEASE

**N.C. STATE BAR FILES QUESTIONABLE LAWSUIT AGAINST ASHEVILLE ATTORNEY
ALAN PHILLIPS, UNLAWFULLY SUPPRESSES COMPLAINTS AGAINST ITSELF**
*Phillips Claims Serious Abuse of Power at the Bar and Expresses Concern
for the Future of Client Privacy Nationwide*

ASHEVILLE, N.C., February 26, 2019 — Private practice attorney Alan Phillips of Asheville, N.C., is shining the spotlight on what he deems a blatant violation of conflict-of-interest rules and an abuse of power by attorneys at the North Carolina State Bar—the government agency that regulates North Carolina attorneys and investigates complaints against North Carolina attorneys.

The N.C. State Bar (not the N.C. Bar Association) is suing Phillips to enforce a subpoena in an underlying investigation, demanding that he turn over hundreds of private client files against his and his clients' wishes, and in violation of those clients' privacy rights. Phillips' clients reside throughout the United States. Phillips' case was heard in Wake County Superior Court on February 7, 2019, resulting in a court order by the judge indicating that a) State Bar attorneys can evaluate complaints against themselves and b) those same attorneys could investigate attorney Phillips, even though there is no specific accusation of misconduct or wrongdoing.

According to Phillips, the suit is in retaliation for his complaint against State Bar attorneys, which Phillips claims was required by law and was supported by two independent expert legal analyses. Several organizations around the country, independently of but in support of Phillips, have also filed complaints against the N.C. State Bar Grievance Committee Chair based on several conflicting social media posts.

Phillips refused to comply with the N.C. State Bar's subpoena because, according to him:

- The underlying State Bar investigation was unlawful because it lacked the legally required "allegation of misconduct." Since the Bar is not accusing him of having done anything wrong, it could not lawfully open an investigation and, therefore, lawfully sue to enforce the subpoena.

- The Bar has a clear conflict of interest. It cannot investigate or sue an attorney who has an unresolved complaint against the Bar. N.C. Bar attorneys are required to obtain outside counsel; however, the Bar is ignoring this conflict of interest.

The underlying investigation and lawsuit concern whether Phillips is engaged in “the unauthorized practice of law”—e.g., practicing law in other states without the appropriate license. However, Phillips says he only advises about federal law unless another locally licensed attorney is also involved, which is legal. “The N.C. Bar has made no specific allegations of wrongdoing yet wants to engage in a ‘fishing expedition’ by looking through hundreds of client files to see if they can find any wrongdoing,” said Phillips. “This is clearly illegal and a breach of my clients’ right to privacy and confidentiality.”

Phillips’ complaints against State Bar attorneys involve allegations that State Bar attorney-investigators have knowingly used false facts to impose discipline, including disbarment, on innocent attorneys—and that the Bar attorneys’ act of suppressing complaints against themselves violates the law. According to Phillips, to address the conflict of interest, complaints against State Bar attorneys must be assessed by an outside, independent committee, and this should be done transparently to ensure all concerned that there is no cover-up of State Bar attorney misconduct.

These events raise two important public concerns:

- 1) N.C. State Bar attorneys are holding themselves above the law by suppressing complaints against themselves. This raises concern about the integrity of the N.C. State Bar as well as the N.C. justice system.
- 2) If state officials can access and review private client files on nothing more than an unsubstantiated suspicion, no client files are truly confidential.

Phillips and approximately 270 of his former clients from around the country are each seeking legal representation for the Bar’s lawsuit against Phillips; they are demanding protection for the sensitive information in their private client files.

According to Phillips, any attempt by N.C. State Bar officials to explain away the complaints against themselves would constitute further unlawful behavior in and of itself because conflict of interest rules prevent them from assessing those complaints.

For more information, visit Bar Watch Inc., a N.C. nonprofit focused on legal integrity, at <https://BarWatchOnline.org>.

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