

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
97G0055(II)R

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| IN THE MATTER OF |) | |
| |) | |
| MELVIN L. WALL JR. |) | REPRIMAND |
| ATTORNEY AT LAW |) | |
| |) | |

On January 15, 1998, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by Ms. Karen W. Barnes.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Committee found probable cause. Probable cause is defined in the rules as "reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action."

The rules provide that after a finding of probable cause, the Grievance Committee may determine that the filing of a complaint and a hearing before the Disciplinary Hearing Commission are not required, and the Grievance Committee may issue various levels of discipline depending upon the misconduct, the actual or potential injury caused, and any aggravating or mitigating factors. The Grievance Committee may issue an admonition, a reprimand, or a censure to the respondent attorney.

A reprimand is a written form of discipline more serious than an admonition issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused harm or potential harm to a client, the administration of justice, the profession, or a member of the public, but the misconduct does not require a censure.

The Grievance Committee was of the opinion that a censure is not required in this case and issues this reprimand to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this reprimand, and I am certain that you will understand fully the spirit in which this duty is performed.

The complainant hired you in March or April of 1991 to represent her in a lawsuit against a hospital. You failed to respond to discovery in the complainant's case. The defendant in complainant's lawsuit filed a motion for sanctions on August 3, 1994. The court ordered that the complainant comply with the defendant's discovery request on or before September 9, 1994 or the complainant's lawsuit would be dismissed.

You did not comply with the defendant's discovery request as ordered by the court and the complainant's action was dismissed as of October 3, 1994.

You refiled a lawsuit in complainant's action against the hospital, but not within the applicable statute of limitations. You did not appear at the hearing on April 8, 1996 wherein the defendant in complainant's action sought a dismissal of the complainant's action because it had not been filed within one year of the dismissal of the action.

You told the Grievance Committee that you were mistaken about the dismissal date of complainant's first action. Therefore, you did not file complainant's action within one year of the dismissal date.

The complainant was not fully apprised of the actions taken in her case.

Your failure to respond promptly to the discovery request violates Rule 1.2(d) and Rule 6(b)(3) of the Rules of Professional Conduct. Your failure to refile the complainant's action within one year of its dismissal is in violation of Rule 1.2(d) and Rule 6(b)(3) of the Rules of Professional Conduct. Furthermore, you failed to explain adequately to the complainant the sequence of events in her case, in violation of Rule 6(b)(1) and (2) of the Rules of Professional Conduct. Your conduct in relation to handling the complainant's case also violated Rule 7.1(a)(1), (2) and (3) of the Rules of Professional Conduct.

In September 1996, the complainant asked that you return her file. You did not promptly return the complainant's file in violation of Rule 2.8(a)(2) of the Rules of Professional Conduct.

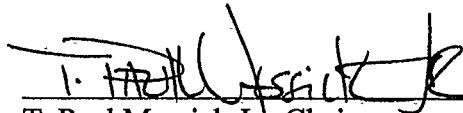
The complainant's grievance was referred to the 14th Judicial District Bar Grievance Committee for investigation. By letter dated February 14, 1997, you were advised to respond to the complainant's grievance within 15 days of receipt of the grievance. You did not respond to the grievance until May 6, 1997.

Your failure to respond promptly to the 14th Judicial District Bar Grievance Committee violates Rule 1.1(b) and Rule 1.2(d) of the Rules of Professional Conduct.

You are hereby reprimanded by the North Carolina State Bar for your professional misconduct. The Grievance Committee trusts that you will heed this reprimand, that it will be remembered by you, that it will be beneficial to you, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession.

In accordance with the policy adopted October 15, 1981 by the Council of the North Carolina State Bar regarding the taxing of the administrative and investigative costs to any attorney issued a reprimand by the Grievance Committee, the costs of this action in the amount of \$50.00 are hereby taxed to you.

Done and ordered, this the 24th day of JANUARY, 1998



T. Paul Messick Jr., Chair
Grievance Committee

TPR/kmc