

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
14G0683

IN THE MATTER OF

Joan M. Mitchell,
Attorney At Law

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REPRIMAND

On July 16, 2015 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by A. J. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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.

You were hired by AJ to pursue a medical malpractice claim on behalf of Decedent's estate. You contacted FE, a nurse holding a doctorate of education, to review the medical records. FE initially found one deviation in the standard of care that she did not believe was a

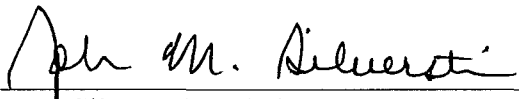
cause of Decedent's death. You filed a motion and were granted an extension to the statute of limitations to obtain all medical records, to locate persons reasonably expected to qualify as expert witnesses, and to afford the witnesses time to review the medical records. During the next six months, you did not obtain additional records and you made no genuine effort to find an expert who could testify about Decedent's medical care. When you filed the medical malpractice complaint, it was based on FE's findings although FE had informed you it was not a strong case and you knew she could not testify to causation. You also knew FE could not qualify as an expert on the medical care, only the nursing care. You failed to inform AJ of FE's opinion. Your complaint lacked merit and was frivolous.

Your failure to find a medical expert demonstrated a lack of diligence in violation of Rule 1.3. Your failure to communicate with AJ about FE's opinions and the validity of the complaint was a violation of Rule 1.4(a)(1), (3), and (b). By filing a frivolous complaint you violated Rule 3.1.

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 July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this the 7th day of August, 2015.



John M. Silverstein, Chair
Grievance Committee

JMS/lb