

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
05G1361

IN THE MATTER OF

R. MICHAEL BRUCE,
ATTORNEY AT LAW

REPRIMAND

On October 19, 2006, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Mr. D.

Pursuant to Section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing in your case. After considering the information available to it, including your responses 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 Revised 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.

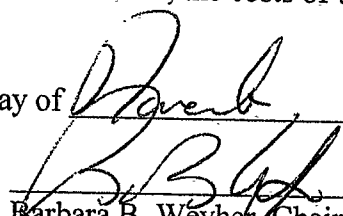
You represented Mr. D, executor of the estate of DD, in a lawsuit involving the estate's right to utilize a driveway. In November, 2004, the lawsuit was dismissed by the court under Rule 12(b)(6), which is a dismissal with prejudice. You believed, erroneously, that a dismissal under Rule 12(b)(6) was without prejudice. You did not notify Mr. D of the dismissal for two months. You refiled the lawsuit in September, 2005. When opposing counsel sought Rule 11 sanctions, you voluntarily dismissed the lawsuit in November, 2005 without Mr. D's knowledge

or consent. In November, 2005, you told Mr. D that it was too late to appeal the November, 2004 dismissal, that the only course of action was to petition the Court of Appeals for certiorari to review the November, 2004 dismissal, and that you would file a petition for certiorari. In January, 2006, you told the State Bar you expected to file the petition within the week. You did not mail the petition to the Court of Appeals until May 23, 2006, after the Grievance Committee contacted you for a status report. You did not return Mr. D's telephone calls. You left documents you believed Mr. D should have about the case in the courthouse box of another attorney, Mr. R, and assumed Mr. D would receive the documents. The Committee found that your conduct violated Rules 1.1, 1.3 and 1.4 of the Revised Rules of Professional Conduct. The Committee found as an aggravating factor that you have substantial prior discipline.

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 8th day of March, 2006.


Barbara B. Weyher, Chair
Grievance Committee

BBW/lr