

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
88G 0251(II)

IN THE MATTER OF)	
)	
CLARENCE C. MALONE)	PUBLIC REPRIMAND
ATTORNEY AT LAW)	
)	

On July 13, 1989, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Marutha E. Lyons.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee, after considering the evidence, including your response to the Letter of Notice, found probable cause which 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 a Private Reprimand, a Public Reprimand, or a Public Censure to the accused attorney.

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

A Public Reprimand is a serious form of discipline imposed by the Grievance Committee. The Grievance Committee felt that your conduct warranted public discipline due to your violation of the Rules of Professional Conduct. The committee trusts that this misconduct will not recur.

Marutha E. Lyons was injured in a fall in January 24, 1984. She employed your office to represent her in her attempt to recover damages for the injuries she suffered in the fall. An associate in your office was handling the case. When the associate subsequently left your employment, Ms. Lyons' case was retained in your office. Ms. Lyons tried on numerous occasions to contact you by telephone. Her calls were not returned. In January, 1988, Ms. Lyons got an appointment with an associate in your office. Through the efforts of the associate, Ms. Lyons finally got to see you in March, 1988. You advised her that the statute of limitations had run on her case and told her that the case had no value. You failed to advise Ms. Lyons that you might be liable to her for failing to take action before the statute of limitations ran and advise her to seek independent counsel.

Your failure to see that action was taken in Ms. Lyons's case before the

statute of limitations ran violated Rules 6(B)(3) and 7.1(A)(1) and (3) of the Rules of Professional Conduct. Your effort to convince Ms. Lyons that her claim had no value at a time when you may have been liable to her for any value the claim may have had violated Rule 5.1(B). By copy of this reprimand, she is advised to now seek counsel.

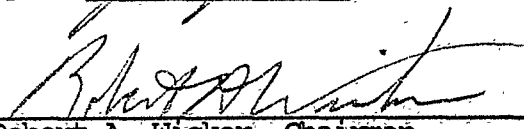
You are hereby publicly reprimanded by the North Carolina State Bar due to your professional misconduct. The Grievance Committee trusts that you will ponder this Public Reprimand, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This Public Reprimand should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

This Public Reprimand will be maintained as a permanent record in the judgment book of the North Carolina State Bar. Since a complaint was made and professional misconduct has been found, the complainant will receive a copy of this Public Reprimand. A copy also is available to the public upon request.

Within 15 days after this Public Reprimand is served upon you, you may refuse this Public Reprimand and request that charges be filed. Such refusal and request must be addressed to the Grievance Committee and filed with the Secretary. If you do file such refusal and request, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. The Hearing before the Disciplinary Hearing Commission is public and all of its proceedings and its decision are public.

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 28 day of July, 1989.


Robert A. Wicker, Chairman
The Grievance Committee
North Carolina State Bar