

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
15G0948

IN THE MATTER OF)	
)	REPRIMAND
DANIEL J. CLIFTON,)	
ATTORNEY AT LAW)	

On July 21, 2016 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by R. F. 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.

Mr. R. F. hired you to represent him in action against the City of Charlotte and two police officers. A lawsuit was filed on February 12, 2013. You did not answer the written discovery requests from the City of Charlotte on behalf of your client.

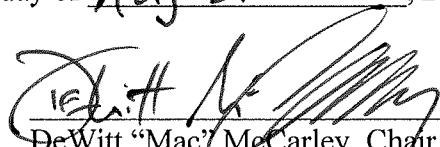
In December 2014, you were served with a notice of Mr. F's deposition by certified mail and email. The deposition was scheduled for January 8, 2015. You indicated that you had problems with your email and you did not check your mailbox for the notice of deposition. As a result, you and Mr. F. missed the scheduled deposition. The city attorney filed a Motion to Compel Discovery and a Motion to Compel Deposition and/or Sanctions. A hearing was scheduled on those motions for January 26, 2015 but you incorrectly noted the hearing date on your calendar as January 28. Consequently, you missed the hearing on the motions.

At the January 26, 2015 hearing, the judge dismissed Mr. F.'s claims with prejudice due to the discovery violations. The judge found that dismissal of the case with prejudice was the only appropriate sanction in view of the totality of the circumstances, which the court found to be "the severity of the disobedience of counsel for plaintiff in failing to make discovery – by failing to produce responses to properly propounded written discovery and by failing to produce his clients for duly noticed deposition for which subpoenas were issued." The Grievance Committee found that your conduct violated Rule 1.3.

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 12th day of August, 2016.


DeWitt "Mac" McCarley, Chair
Grievance Committee

DM/lb