

NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
15G0289

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IN THE MATTER OF	)	
	)	REPRIMAND
MARK I. FARBMAN,	)	
ATTORNEY AT LAW	)	

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On January 21, 2016 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by N. P. 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.

In 2013, you settled a personal injury case with Ms. N.P.'s company, State Farm, on behalf of your client, Mr. J. L. W., Jr. On July 24, 2013, State Farm sent a post-settlement release form to your office. Approximately three weeks later, State Farm received the release form but it was not signed by Mr. W, your client. The State Farm adjuster called and left

a message for you that State Farm could not accept the release form because it was not signed by your client.

State Farm did not hear from you or anyone from your office for two months. The State Farm adjuster left additional messages for you in October and November 2013. You did not respond to those messages.

In December 2013, an adjuster spoke with your assistant and he agreed to pull the file and send a release form. The assistant sent the same release form, the one which was not signed by Mr. W. For the next 15 months, State Farm made numerous attempts to get your office to send a properly executed release. The State Farm representative was unable to speak directly with you. Ms. N. P. filed a grievance against you on March 30, 2015. After Ms. P. filed the grievance, she received a properly executed release from your client.

The Grievance Committee found that you neglected your client's case by not sending a properly executed release to the insurance company for almost two years in violation of Rule 1.3. You violated Rule 8.4(d) when you did not send a properly executed release signed by your client to State Farm for almost two years, which prevented State Farm from being able to close out its file and avoid additional liability.

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 9<sup>th</sup> day of February, 2016.

  
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Michael L. Robinson, Chair  
Grievance Committee

MLR/lb