

NORTH CAROLINA

WAKE COUNTY

18918
BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
98G0325

IN RE:	KEITH A. BISHOP,)	
	Attorney At Law)	CENSURE
)	

On July 25, 2001, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by the NC State Bar.

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

A censure is a written form of discipline more serious than a Reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee was of the opinion that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State bar, it is now my duty to issue this censure. I am certain that you will understand fully the spirit in which this duty is performed.

On December 16, 1997, you defended a deposition of your client, Jamin Thakkar, taken by defendant's counsel, Frank P. Ward, in an action entitled *Thakkar v. Northern Telecom*, file number 97-CVS-01380, pending in Durham County Superior Court. At the outset of the deposition, you stated on the record that all objections, even those as to the form of questions, were preserved. Opposing counsel would not agree to stipulate that objections to the form of

question were preserved. Nevertheless, the parties proceeded with the deposition agreeing, at a minimum, to the "standard stipulations" and reserving the issue as to whether objections to the form of questions were preserved. Thereafter, you frequently interrupted defense counsel's examination of the plaintiff with improper speaking objections to permissible questions and, on numerous occasions, instructed the plaintiff not to answer properly posed questions. Defense counsel attempted to clarify your objections on the record. Each time, you refused to answer defense counsel's questions on the grounds that you were not being deposed and defense counsel should direct all questions to the deponent. Given the frequency of your improper objections, your deliberateness in not allowing your client, the plaintiff, to respond to questions even after opposing counsel rephrased the questions, and your repeated refusals to clarify your objections in the record when asked to do so by defense counsel, the Grievance Committee concluded that your conduct in the deposition was a deliberate attempt to thwart defense counsel's access to discoverable information.

Discovery matters were ultimately taken before the court, Judge Ronald L. Stephens, presiding. The issues addressed at a hearing included the non-responsiveness of your client, the plaintiff, at the deposition. After reviewing the full record, the court found in its discovery order, dated February 13, 1998, that "the Plaintiff and the Plaintiff's Counsel have established a pattern of disregarding due dates and times for responding to discovery and the Plaintiff's incomplete and untimely responses to discovery requests and orders of the Court, as well as the Plaintiff's refusal to properly answer questions during his deposition[,] has demonstrated to this Court an attitude that has created unnecessary and unduly burdensome expenses upon the Defendant[.]" Taken as a whole, your conduct in discovery prior to and during the deposition made it difficult for defense counsel to examine the plaintiff and to obtain information discoverable under Rule 26 of the NC Rules of Civil Procedure.

Based on the foregoing conduct, the Grievance Committee determined that you violated Rule 3.4(d) of the Revised Rules of Professional Conduct, in that during pretrial procedures, you failed to make reasonably diligent efforts to comply with legally proper discovery requests. The Grievance Committee also found that you violated Rule 3.2 of the Revised Rules of Professional Conduct by failing to make reasonable efforts to expedite litigation consistent with the interests of your client. Finally, the Committee concluded that your conduct in discovery was prejudicial to the administration of justice in violation of Rule 8.4(d). The Grievance Committee based its conclusions, in part, upon the trial court's finding, after reviewing the full record, that the plaintiff's conduct in discovery, including his refusal to answer deposition questions, created unnecessary and unduly burdensome expenses upon the defendant.

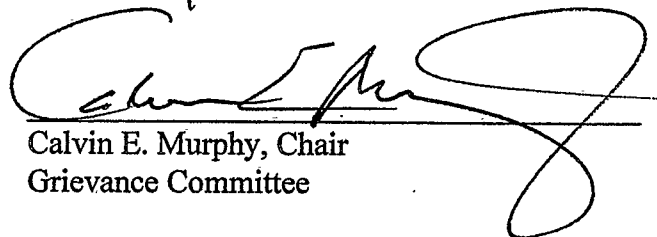
In deciding to issue a censure, the Grievance Committee considered the fact that you had no prior discipline as a mitigating factor.

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, 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 censure 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.

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 censure 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 14 day of August, 2001.



Calvin E. Murphy, Chair
Grievance Committee

CEM/kah