

7974

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
91G 0129(I)

IN THE MATTER OF

SAMUEL S. POPKIN  
ATTORNEY AT LAW

PUBLIC CENSURE

On July 11, 1991, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Shirley Goins.

Pursuant to Section 13(7) of Article IX of the Rules and Regulations of the North Carolina State Bar, the Grievance Committee conducted a preliminary hearing. After considering the evidence, including your response to the Letter of Notice, the Grievance Committee 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 Censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this Public Censure. I am certain that you will understand fully the spirit in which this duty is performed.

A Public Censure is the most serious discipline that the Grievance Committee can impose. The Grievance Committee felt that your professional misconduct was a serious and substantial violation of the Rules of Professional Conduct and deserved the most severe form of public discipline short of actual suspension or loss of your license.

You filed a lawsuit on behalf of Shirley Goins in a personal injury claim. You admit that the original summons in Ms. Goins' case expired and you did not seek an alias or pluries summons. Consequently, Ms. Goins' case was dismissed.

Your failure to obtain an alias and pluries summons in Ms. Goins' case is a violation of Rule 6(B)(3) of the Rules of Professional Conduct. This rule requires a lawyer to "act with reasonable diligence and promptness in representing the client." As a result of your neglect in this matter, Ms. Goins' claim was destroyed.

Your conduct in this matter is also a violation of Rule 7.1(A)(1)(2)(3). This rule requires a lawyer to seek the lawful objectives of his client, to

carry out a contract of employment entered into with a client for professional services, and represent the client in such a way that the client is not prejudiced or damaged during the course of the professional relationship.

The Committee is aware that Ms. Goins has pursued a civil action against you for your failure to obtain an alias or pluries summons, and thus letting her case be dismissed. However, the Committee believed that your conduct in this matter also violated the Rules of Professional Conduct as set forth above.

You are hereby publicly censured by the North Carolina State Bar due to your professional misconduct and violation of the Rules of Professional Conduct. The Grievance Committee trusts that this Public Censure will be heeded by you, 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 order to remain a respected member of the legal profession whose conduct may be relied upon without question, you must in the future carefully weigh your responsibility to the public, your clients, your fellow attorneys and the courts. The Grievance Committee expects that no professional misconduct will occur in the future.

Pursuant to Section 23 of Article IX of the Rules and Regulations of the North Carolina State Bar, it is ordered that a certified copy of this Public Censure be forwarded to the Clerk of the Superior Court of Onslow County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will be maintained as a permanent record in the judgment book of the North Carolina State Bar and a copy shall be sent to the local newspapers in the county in which you practice. A copy also will be sent to the complainant.

If you have not accepted this Public Censure within 15 days after it is served upon you, counsel shall thereafter be instructed to prepare and file a complaint against you with the Disciplinary Hearing Commission of the North Carolina State Bar. Your acceptance must be addressed to the Grievance Committee and filed with the Secretary. 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 Public 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 21<sup>st</sup> day of August, 1991.



Robert J. Robinson, Chairman  
The Grievance Committee  
North Carolina State Bar