

6827

NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
GRIEVANCE COMMITTEE  
OF THE  
NORTH CAROLINA STATE BAR  
00G0616

IN THE MATTER OF )

RODNEY W. ROBINSON, )  
ATTORNEY AT LAW )

REPRIMAND

On October 18, 2000, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by the North Carolina State Bar.

Pursuant to section .0113(a) of the Discipline and 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 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 and I am certain that you will understand fully the spirit in which this duty is performed.

On approximately February 25, 2000, you agreed to assume representation of Charlene Tabitha Giddens for injuries and damages resulting from a motor vehicle accident on March 3, 1997. You assumed this representation because the attorney with whom you shared an office was experiencing significant difficulties and the statute of limitations was about to expire on Ms. Giddens' claim. You filed a suit on behalf of Ms. Giddens on March 1, 2000, prior to the statute of

limitations. However, you named and served the wrong defendant in the action. On March 31, 2000, the defendant served a motion to dismiss on you based on this error.

On April 4, 2000, you met with your client, Ms. Giddens, and discussed the status of the case. You discussed an offer of judgment from the defendants, which she decided to decline. After your discussions, it was agreed that you would withdraw as counsel in the matter. During this meeting, you prepared a clause entitled "release from contract and liability" which you and Ms. Giddens signed on that date. The release purported to allow you to withdraw from the case "without liability." The release also stated that: "Ms. Giddens agrees to hold Mr. Robinson harmless from all liability."

You did not file any motion to withdraw with the court. The motion to dismiss was heard by the presiding superior court judge on May 22, 2000. You failed to appear at that hearing, or to file a motion to withdraw prior to it. Your client's actions and claims were dismissed at the hearing.


The Committee found that your above described conduct violates several Revised Rules of Professional Conduct. First, the release from contract and liability that you and Ms. Giddens executed violated Revised Rule 1.8(h). Second, the Committee found that your attempt to withdraw without filing a motion violated Revised Rule 1.16(c). You were required under Rule 16 of the General Rules of Practice in Superior and District Courts to obtain leave of court to withdraw.

In deciding to issue Reprimand, the Committee considered the following aggravating and mitigating factors. In aggravation, the Committee considered that your initial conduct in the case had caused your client potential harm or prejudice. The statute of limitations expired before you were able to correct the errors made in the initial filing. In mitigation, the Committee considered the fact that you initially agreed to take the case in a sincere attempt to assist Ms. Giddens in pursuing her claim and preventing the statute of limitations from expiring.

You are hereby Reprimanded by the North Carolina State Bar due to 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 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 24 day of October, 2000.

  
James K. Dorsett, III  
Chair, Grievance Committee