

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
85G 0545(II)

IN THE MATTER OF

GEORGE W. BROWN,
ATTORNEY AT LAW

PUBLIC CENSURE

At its regular quarterly meeting on October 22, 1986, the Grievance Committee of the North Carolina State Bar conducted a preliminary hearing under Section 13 of the Discipline and Disbarment Rules of the North Carolina State Bar regarding the grievance filed against you by Wilson D. Womble. The Committee considered all of the evidence before it, including your written statement to the Committee. Pursuant to Section 13(10) of the Discipline and Disbarment Rules, the Committee found probable cause. Probable cause is defined under the Discipline and Disbarment Rules as: "A finding by the Grievance Committee that there is reasonable cause to believe that a member of the North Carolina State Bar is guilty of misconduct justifying disciplinary action." The rules also provide that if, after a finding of probable cause, the Committee determines that a complaint and a hearing are not warranted, the Committee may issue a public censure upon the acceptance of the same by the attorney. That determination has been made by the Committee and the Committee 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 and I am certain that you understand fully the spirit in which this duty is performed, that you will understand the censure, and appreciate its significance. The fact that a public censure is not the most serious discipline that may be imposed by the North Carolina State Bar should not be taken by you to indicate that any member of the Committee feels that your conduct was excusable or less than a serious and substantial violation of the Code of Professional Responsibility.

You represent Wilson D. Womble in a personal injury action arising out of an accident that occurred on November 21, 1979. Mr. Womble was a passenger in his wife's automobile at the time of the accident. When settlement negotiations were unsuccessful, you filed a lawsuit on Mr. Womble's behalf on November 19, 1982. You were successful in having Mr. Womble's wife served with the complaint, but were unsuccessful in having the Jones's, driver and owner of the vehicle that rear-ended the vehicle in which Mr. Womble was a passenger, served with summon's and a copy of the complaint. You failed to have the original summon's endorsed or have alias and pluries summons's issued within 90 days as required to continue the lawsuit in existence against the Jones's. Mr. Womble's wife was granted summary judgment on November 1, 1983. A Judgment of Discontinuance was entered on November 4, 1983 as a result of the Jones's not being served with summon's and without any extension of

process being made. On November 25, 1983, you filed a new lawsuit against each of the defendants in the previous lawsuit. The subsequent lawsuit was dismissed in July 1984. After July, 1984, you continued to advise your client, Mr. Womble, that you would continue to try to get his case settled. You failed to advise him that the case was dismissed in part due to your failure to serve the Jones's or have summons's extended against the Jones's. Your thinking that the case had ended in a voluntary dismissal which would have allowed you to file it again does not excuse your conduct. Merely referring to your file would have shown you the true status of Mr. Womble's case.

You were served with a Letter of Notice in this matter by certified mail. You yourself signed the receipt for the Letter of Notice on March 21, 1986. You did not respond to the Letter of Notice. You were sent a follow-up letter on April 22, 1986 which you failed to respond to. You did comply when subsequently subpoenaed to appear and produce your records concerning your representation of Mr. Womble.

By failing to serve or continue the summons's against the Jones's, you neglected a legal matter entrusted to you in violation of DR6-101(A)(3). You also failed to seek the lawful objectives of your client through reasonably available means, failed to carry out a contract of employment entered into with a client for professional services, and prejudicial or damaged your client during the course of the professional relationship in violation of DR7-101(A)(1), (2), and (3), respectively.

Your failure to timely respond to the formal inquiries of the North Carolina State Bar in a disciplinary matter violated N. C. Gen. Stat. §84-28(b)(3).

The Grievance Committee understood that you did not intend to misrepresent the status of Mr. Womble's claim when you discussed it with him after July, 1984. Had that not been the case, this matter would surely have been referred to the Disciplinary Hearing Commission. Although this Public Censure is not the most severe discipline that could be imposed for your misconduct, it should not be taken as anything but a stern warning to never again fail to diligently pursue your client's interests.

The Committee is confident that this Public Censure will be heeded by you, that it will be remembered by you, and will be beneficial to you. The Committee is confident that you will never again allow yourself to depart from strict adherence to the highest standards of the profession. Instead of being a burden, this Public Censure should serve as a profitable and everpresent reminder to weigh carefully your responsibilities to your clients, to the public, to your fellow attorneys, and to the courts.

Pursuant to Section 23 of the Discipline and Disbarment Rules, it is ordered that a certified copy of this Public Censure be forwarded to the Superior Court of Durham County for entry upon the judgment docket and to the Supreme Court of North Carolina for entry in its minutes. This Public Censure will also be maintained as a permanent record in the judgment book of the North Carolina State Bar. Pursuant to policy adopted by the Council of the North Carolina State Bar on the taxing of costs in cases where discipline is entered by the Grievance Committee, you are hereby taxed \$50.00 as the administrative costs in this action.

This the 6th day of March, 1985.

Joseph B. Cheshire, Jr.
Joseph B. Cheshire, Jr., Chairman
The Grievance Committee