NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
11G0768

IN THE MATTER OF)
)
Rodney C. Mason)   REPRIMAND
Attorney At Law)
)

On October 20, 2011, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Paul E. Fomberg.

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.
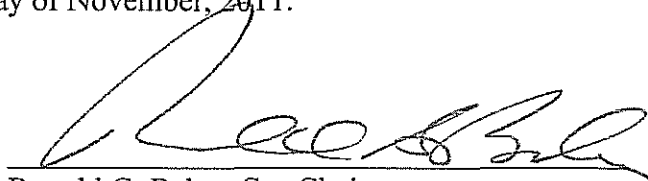
In February 2009, you represented EF in filing and serving a complaint against her husband, RF, for divorce. RF did not file an answer to the complaint by the deadline and, as a result, you obtained for EF a divorce by default in April 2009. A local rule of practice (Rule 23 of the Case Management Rules for the District Court of the Eighteenth Judicial District) required that you notify RF's attorney of the missed deadline and afford her a reasonable time to respond

prior to obtaining the default divorce judgment. Following a hearing on the motion by RF's attorney, the court found that the divorce judgment had been obtained in violation of local Rule 23 and set aside the default divorce judgment because you did not notify RF's attorney of the missed deadline to answer the February 2009 complaint and you also did not afford a reasonable time for RF's attorney to respond prior to obtaining the default divorce judgment. Rule 3.5(a)(4)(A) of the North Carolina Rules of Professional Conduct provides that a lawyer shall not engage in conduct intended to disrupt a tribunal, including "failing to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving opposing counsel timely notice of the intent not to comply." Your conduct in violating local Rule 23 violated Rule 3.5(a)(4)(A).

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 _2_ _2_ day of November, 2011.

Ronald G. Baker, Sr., Chair
Grievance Committee

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