

NORTH CAROLINA

WAKE COUNTY

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BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G1329(IV) & 96G1345(IV)

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| IN THE MATTER OF |) | |
| |) | |
| ROBERT W. ADAMS, |) | CENSURE |
| ATTORNEY AT LAW |) | |

On April 3, 1997, the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by Paula L. McLean and the 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.

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 believes that a hearing before the Disciplinary Hearing Commission is not required in these cases 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.

You agreed to represent Mr. and Mrs. McLean in a lawsuit. The opposing party gave you notice of his intention to depose the McLeans. Neither you nor the McLeans appeared at their deposition. According to Mr. and Mrs. McLean, you did not notify them of their deposition.

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The opposing party moved for sanctions for the McLeans' failure to appear for their deposition. You did not notify the McLeans of that motion. The court entered sanctions against Mr. and Mrs. McLean on July 29, 1996. Mr. and Mrs. McLean were ordered to pay a total of \$300.00 as sanctions. This amount was due in the Clerk of Superior Court's office on August 28, 1996. The court provided that the failure of the McLeans to pay the sanctions as ordered would subject them to further sanctions, including striking their pleadings in the matter. You did not advise Mr. and Mrs. McLean of the order of sanctions entered against them.

Apparently a mediation hearing was held and you agreed to settle the case on behalf of the McLeans for \$1,500.00. You failed to tell them the date that this \$1,500.00 had to be paid.

Mr. and Mrs. McLean were forced to consult another attorney who reviewed their file and revealed to them the order for sanctions against them and that they had to pay the \$1,500.00 in the mediation settlement agreement by a certain date.

You failed to attend diligently to Mr. and Mrs. McLeans' case and you failed to keep them notified of the developments in their case. Your conduct violated Rule 6(b)(1),(2) and (3) and Rule 7.1(a)(1),(2) and (3) of the Rules of Professional Conduct.

In your response to the Grievance Committee, you indicated that the opposing counsel never gave you notice of your clients' deposition. However, there was evidence that the opposing counsel wrote you on June 7, 1996 and asked for your availability respecting taking the McLeans' deposition. It appears that you did not respond to the opposing counsel's letter.

In letters dated February 20 and 21, 1997, the State Bar counsel asked you to respond to follow-up questions regarding the McLeans' grievance. You failed to respond to those letters as requested by State Bar counsel. Your failure to respond to those letters violated Rule 1.1(b) of the Rules of Professional Conduct. You are advised to respond promptly to any inquiry by the North Carolina State Bar when there is an investigation of a grievance against you.

In July 1996, the North Carolina State Bar Grievance Committee issued a reprimand to you in a grievance filed by Denise R. Queen. You accepted service of the reprimand and did not reject it.

The Grievance Committee ordered you to pay the costs of \$50.00 in the reprimand. Counsel for the State Bar wrote you on September 10 and September 30, 1996 regarding payment of the costs. You did not respond to State Bar counsel's letters.

A grievance was established for your failure to pay the costs in the Denise R. Queen matter. You finally paid the costs on February 6, 1997.

Your failure to comply with the orders of the Grievance Committee violated Rule 1.2(d) of the Rules of Professional Conduct.

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 30th day of April, 1997.



Ann Reed
Chair, Grievance Committee
The North Carolina State Bar