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NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
00G1364

IN THE MATTER OF)

DOUGLAS T. SIMONS,
ATTORNEY AT LAW)

REPRIMAND

On October 17, 2001, 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.

You represented the plaintiffs in a medical malpractice case captioned Williams v. Richmond Memorial Hospital. On May 22, 2000 you appeared in Richmond County Superior Court for a hearing regarding the hospital's summary judgment motion. At the hearing, you presented the court with the affidavit of Dr. Robert Cantu, verified on May 2, 2000. The affidavit purported to have been sworn to and subscribed by Dr. Cantu before a notary in your

office. The affidavit indicated that Dr. Cantu believed that there was negligence on the part of one of the physicians in the case.

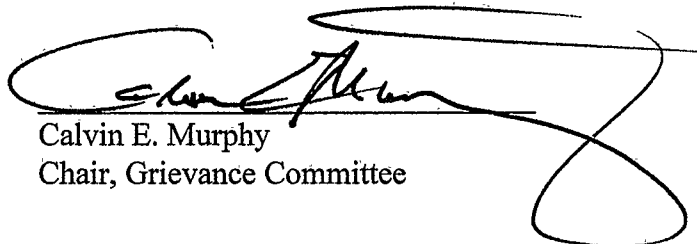
During the arguments on the motion, a question regarding the authenticity of the affidavit arose. You advised the court that Dr. Cantu personally appeared in your office on May 2 and signed the affidavit in the presence of the notary. This statement was false and therefore violated Rule 3.3 of the Revised Rules of Professional Conduct.

By necessity, judges rely upon attorneys to be honest in all of their dealings with the court. Without that trust, our system of justice would not function. Your conduct in this matter not only betrayed the trust which the court placed in you, but did a disservice to the legal profession as a whole, by sending a message to your clients that lawsuits are won by prevarication and tricks rather than by evidence and the law.

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 30 day of Oct., 2001.



Calvin E. Murphy
Chair, Grievance Committee