

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
15G0137

IN THE MATTER OF)	
)	
Timothy M. Mullinax,)	CENSURE
ATTORNEY AT LAW)	
)	

On July 16, 2015, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by T. C. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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 this case 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.

You agreed to assist Ms. T. C. and her family in a possible lawsuit against a party who owned adjacent property to Ms. C.'s family's property. In March 2014, Ms. C. received a copy of a complaint and summons, which listed the name of her family corporation as the plaintiff versus the defendant property owner. The complaint and summons were dated and had a court file number. Ms. C. said that you also sent her a copy of a motion for expedited hearing in her family's lawsuit, and this motion had a court file number and was also dated. You led Ms. C. to believe that you had filed these pleadings in court when you had not actually filed them. In your response to this grievance, you stated that the pleadings were merely drafts and you had placed accidentally a file number from another case onto Ms. C's pleadings. The Grievance Committee found that you misrepresented the status of the lawsuit by

providing pleadings that were dated and had a court file number on them. Your conduct violated Rule 8.4(c).


The staff attorney assigned to this grievance sent you follow-up questions. You did not respond to those questions timely. The State Bar Office of Counsel subpoenaed you to the Grievance Committee meeting so as to give you another opportunity to respond to those follow-up questions. You responded to the follow-up questions the day before the Grievance Committee's July 16, 2015 meeting. You indicated in your follow-up response that you had been out of the office attending to some personal matters. However, you never advised the staff attorney that you were out of the office and needed additional time to respond to her follow-up questions. Your failure to respond timely to the additional questions violated Rule 8.4(d) and impeded the investigation of Ms. C.'s complaint against you.

In issuing this censure, the Grievance Committee found as an aggravating factor that you had received an admonition from the Grievance Committee in 2014 for neglect and a failure to respond to the staff's follow-up letter regarding the grievance.

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 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 censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this 4th day of August, 2015.



John M. Silverstein, Chair
Grievance Committee
The North Carolina State Bar