

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
04G0648 & 04G1115

IN THE MATTER OF)

Michael C. Byrne,)
Attorney At Law)

) REPRIMAND
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)
)

On October 18, 2007 the Grievance Committee of the North Carolina State Bar met and considered the grievances filed against you by EM and AD.

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.

You were retained by EM to file a lawsuit on her behalf. You did so in 2002 and the opposing party filed an answer and counterclaim. You failed to inform EM of the counterclaim and failed to file an answer on her behalf to the counterclaim. Opposing counsel obtained an entry of default on the counterclaim. Although you filed motions to set aside the entry of default and to dismiss the counterclaim, you did not pursue the motions. EM's case was set for trial on

September 11, 2003. You did not notify EM of the trial date and you did not appear for her on the trial date. Your motions to set aside the entry of default and to dismiss the counterclaim were denied, EM's complaint was dismissed with prejudice, and the opposing party was awarded recovery under the counterclaim. You did not notify EM of this result. EM filed a grievance with the State Bar. You were served with a letter of notice in this grievance on August 20, 2004 and required to respond within 15 days of your receipt of the letter of notice. You did not respond.

You were retained by AD to represent him concerning faulty construction of his home. You had AD sign a complaint in June 1999 but you did not file the complaint or take any other action in the matter on AD's behalf. From June 1999 through May 2004 AD would periodically mail you documents regarding defects in the house. You did not respond to AD's communications or otherwise communicate with him during this time. Ultimately you allowed the statute of limitations to run on AD's claim and did not file a lawsuit on his behalf or otherwise act to protect his interests in the matter. AD filed a grievance with the State Bar, which was investigated by the Tenth Judicial District Bar Grievance Committee. You received notice of the grievance but did not respond despite contact by a member of the Tenth Judicial District Bar Grievance Committee on November 18, 2004 and your commitment to provide your response within 3 working days of that date.

Your neglect of these client matters and your failure to communicate with the clients are in violation of Rule 1.3 and Rule 1.4(a)(4). Your failure to respond to the inquiries of the State Bar are in violation of Rule 8.1(b) and N.C. Gen. Stat. § 84-28(b)(3). Although the Grievance Committee considered your cooperation and the efforts you made to address underlying problems in mitigation, the Grievance Committee determined that the harm that resulted to your clients required the discipline being imposed.

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 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 the 19th day of November, 2007



James R. Fox, Chair
Grievance Committee

JRF/lr