

1479

NORTH CAROLINA

WAKE COUNTY

FILED  
1979 DEC -7 AM 9:58  
J.E. LAWRENCE, CLERK  
NORTH CAROLINA STATE BAR

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
79 DHC 16

THE NORTH CAROLINA STATE BAR, )  
Plaintiff, )  
)  
-vs- )  
)  
JOSEPH T. FLYTHE, Attorney, )  
Defendant. )

STIPULATIONS

It is stipulated by the parties to this action that:

1. The uncontroverted evidence now available as resulting from voluntary discovery following the filing of the Complaint and the Answer clearly shows that the Defendant neither intentionally nor knowingly attempted to take any action which would serve merely to harass another; and that there was no dishonesty, deceit, or misrepresentation of justice or other conduct adversely reflecting on the Defendant's ability to practice law.
2. However, the conduct of the Defendant which was shown by the evidence produced through voluntary discovery prior to trial was such that might reflect upon the profession, might cause misunderstanding or misconception to others as to professionally accepted conduct, and might be the subject of disciplinary proceedings if repeated in the future.
3. These Stipulations were entered into by oral agreement between counsel for the parties reached on November 28, 1979.

This the 29th day of November, 1979.

David R. Johnson  
David R. Johnson  
Attorney for the Plaintiff

Eugene Boyce  
Eugene Boyce  
Attorney for the Defendant

Joseph T. Flythe  
Joseph T. Flythe  
Defendant

NORTH CAROLINA

WAKE COUNTY

FILED

1979 NOV 29 PM 3:30

S.E. H. HIGGINS, SEC.  
THE N.C. STATE BAR

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
79 DHC 16

THE NORTH CAROLINA STATE BAR, )  
Plaintiff, )  
 )  
-vs- )  
 )  
JOSEPH T. FLYTHE, Attorney, )  
Defendant. )

NOTICE OF  
VOLUNTARY DISMISSAL

TO: Joseph T. Flythe, Defendant, and  
Eugene Boyce, Attorney for Defendant

Please take notice that the Plaintiff hereby voluntarily dismisses this action with prejudice pursuant to Rule 41(a) of the Rules of Civil Procedure and Rule 14(12) of the Discipline and Disbarment Rules of the North Carolina State Bar. Plaintiff's reasons for dismissing are that documentary evidence unavailable or not produced to either party prior to the bringing of this action clearly shows that the checks which were the subject of this action were delivered on August 17, 1978, and not on August 24, 1978, as alleged in the complaint; that no party entitled to a distribution received a check prior to August 17, 1978; and that the failure of the Defendant to deliver the checks as alleged in the Complaint was not an action taken merely to harass another and exhibited no fraud, deceit, or misrepresentation. The documentary evidence is attached to this Notice as Exhibits 1 and 2.

This the 29th day of November, 1979.

David R Johnson  
David R. Johnson  
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

This is to certify that I have this day served Eugene Boyce, Counsel for the Defendant in the foregoing manner with a copy of this Notice by hand delivery in the manner prescribed by Rule 5 of the Rules of Civil Procedure.

This the 29th day of November, 1979.

David R Johnson  
David R. Johnson  
Attorney for the Plaintiff