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STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
92G0492 (IV)

IN THE MATTER OF

KEITH L. CLARK
ATTORNEY AT LAW

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REPRIMAND

On October 21, 1992, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by William F. Blauw.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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 complainant, William F. Blauw, and his wife, Diana Blauw, in a lawsuit against James D. Killian and wife, Wilma J. Killian, the defendants in the action moved for summary judgment. You did not appear at the hearing on the motion for summary judgment. In fact, you advised counsel for the defendants that you did not intend to argue the motion for summary judgment and you would not be in court on that day. You advised defendants' lawyer to proceed with the matter before the court. Furthermore, you did not submit a written response to the motion for summary judgment. The defendants' motion for summary judgment was granted. You did not inform Mr. and Mrs. Blauw of the motion for summary judgment or its outcome.

In your response to the Blauws' grievance, you indicated that one of the reasons you did not appear at the hearing on the motion for summary judgment was that you believed the Blauws had abandoned their case. You did not present any evidence to show that the Blauws had abandoned their case and thus you were not justified in your failure to appear at the hearing on the motion for summary judgment.

The court records further show that the Killians served a request for production of documents upon you as counsel for the Blauws. You requested an extension of time to respond to this request, but you nevertheless failed to respond. The Killians moved for an order to compel the Blauws to respond to the production of documents.

The Killians' attorney, Russell L. McLean, III, moved for Rule 11 sanctions in this case. The court found that the complaint you filed on behalf of the Blauws was not verified by them. The court also found that you did not file an affidavit in opposition of the summary judgment. Finally, the court held that from the record there appeared to be no basis in fact for the filing of the complaint. The Blauws were ordered to pay \$1,397.00 as attorney's fees for Mr. McLean. You have indicated that you eventually paid the attorney's fees assessed against the Blauws.

Your failure to appear and offer arguments at the motion for summary judgment hearing is in violation of Rule 6(B)(3) and Rule 7.1(A)(1), (2) and (3) of the Rules of Professional Conduct. A lawyer has an obligation to zealously represent the interests of his client. Therefore, you should have appeared at the hearing on the summary judgment motion. Your failure to appear and represent your clients at the summary judgment motion hearing was essentially an abandonment of your clients' claim.

Your delay in responding to the Killians' request for production of documents violates Rule 6(B)(3). You have an obligation to act with reasonable diligence and promptness in representing your client. A lawyer's procrastination can often adversely affect his client's interest, as was the case in this matter.

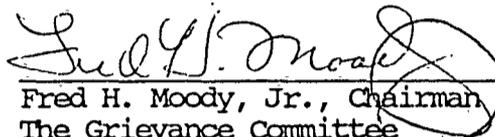
You violated Rule 6(B)(1) of the Rules of Professional Conduct when you did not keep the Blauws informed of the motion for summary judgment, its outcome, and the Rule 11 sanctions motion and its outcome. Your client is entitled to know about those matters which affect his legal claim. An attorney cannot keep the client in the dark about those matters, even if those matters reflect adversely on the lawyer.

The Grievance Committee was concerned that you did not respond timely to follow-up questions regarding this grievance as presented in a letter dated September 21, 1992. Rule 1.1(B) requires a lawyer to respond to a lawful demand for information from a disciplinary authority.

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 6 day of November, 1992.


Fred H. Moody, Jr., Chairman
The Grievance Committee
North Carolina State Bar

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