

10589

STATE OF NORTH CAROLINA
COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
91G0899(I)

IN THE MATTER OF)	
)	
DAL F. WOOTEN)	REPRIMAND
ATTORNEY AT LAW)	

On January 16, 1992, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Dwight D. Jernigan.

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 undertook to represent Shirley Jernigan respecting a domestic matter. You were aware that Ms. Jernigan's former husband, Dwight Jernigan, was represented by John Hooten prior to Aug. 12, 1991. On that date, Shirley Jernigan, David Brock, Dwight Jernigan and Jernigan's present wife, Gail, appeared in your office. Brock is Shirley Jernigan's boyfriend. Shirley Jernigan remained in your waiting room, while Brock, Dwight Jernigan and Gail Jernigan met with you in your office.

A discussion then occurred regarding possible settlement of the domestic matter and other issues. You did not notify Mr. Hooten that his client was in your office prior to or during this meeting nor did you obtain his consent to contact his client either directly or indirectly.

Rule 7.4 of the Rules of Professional Conduct forbids attorneys to

00035

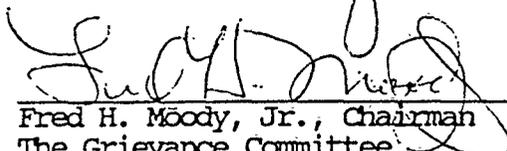
contact parties represented by counsel without the prior permission of the party's attorney. You violated this rule by participating in the Aug. 12 meeting at your office without first obtaining John Hooten's permission to contact his client, Dwight Jernigan. You also violated the Rule by facilitating contact between Jernigan and Brock and Shirley Jernigan, since an attorney may not do indirectly through another what he may not do directly.

The Committee took into account the fact that it appears that you were absent for portions of the discussion, made relatively few comments, and that no apparent prejudice resulted.

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 16 day of February, 1992.


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