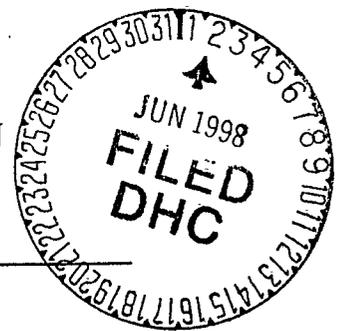


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NORTH CAROLINA

WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
NORTH CAROLINA STATE BAR  
97 DHC 28



THE NORTH CAROLINA STATE BAR, )  
)  
Plaintiff )  
)  
v. )  
)  
JOHN E. HALL, Attorney )  
)  
Defendant )

FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER OF  
DISCIPLINE

This matter was heard on May 8, 1998, before a hearing committee of the Disciplinary Hearing Commission composed of James R. Fox, Chair; Richard T. Gammon, and Anthony E. Foriest. The North Carolina State Bar was represented by Fern Gunn Simeon. The defendant, John E. Hall, was represented by J. Gary Vannoy and John G. Vannoy. Based upon the pleadings and the evidence introduced at the hearing, the hearing committee hereby enters the following:

FINDINGS OF FACT

1. The North Carolina State Bar is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the North Carolina General Statutes and the Rules and Regulations of the North Carolina State Bar.
2. The defendant, John E. Hall, was admitted to the North Carolina State Bar in 1955 and is, and was at all times referred to herein, an attorney at law licensed to practice law in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.
3. During most of the periods referred to herein, defendant was engaged in the practice of law in North Carolina and maintained a law office in Wilkesboro, North Carolina.
4. The defendant was properly served with process and the hearing was held with due notice to all parties.
5. On May 16, 1988, defendant filed a lawsuit on behalf of the Churches against Utica Radiator Corporation (Utica) in Alleghany County, file number 88 CVS 54. Utica manufactured the boiler which malfunctioned in the Churches' home.

6. On May 12, 1990, defendant was served with request for admissions, interrogatories, and request for production of documents by the opposing parties in the Utica case. The responses to the request for admissions, interrogatories and request for production of documents were due on or about June 15, 1990.

7. Defendant did not respond in a timely fashion to the request for admission, interrogatories and request for production of documents.

8. Blevins Workshop Inc. (Blevins) was a third-party defendant in the lawsuit the Churches filed against Utica. Blevins filed a motion for summary judgment as to its third-party claim against the Churches.

9. On April 21, 1989, Blevins' motion for summary judgment was granted.

10. On April 25, 1989, defendant gave notice of appeal of the court's order of April 21, 1989.

11. Defendant was given 90 days within which to serve a record on appeal. Defendant did not file or serve a record on appeal and the Churches' case was dismissed on January 8, 1990.

12. On May 7, 1990, defendant filed a notice of voluntary dismissal without prejudice in the Churches' lawsuit against Utica.

13. On December 21, 1990, defendant filed another lawsuit against Utica on the Churches' behalf.

14. The North Carolina State Bar's First and Second Claims for Relief are barred by Rule .0111(e) of the Discipline and Disability Rules and dismissed.

15. The North Carolina State Bar did not prove facts by clear, cogent and convincing evidence to support the violation alleged in its Fourth Claim for Relief in its Amended Complaint.

Based upon the foregoing Findings of Fact, the hearing committee enters the following:

#### CONCLUSIONS OF LAW

1. All parties are properly before the hearing committee and the committee has jurisdiction over the defendant and the subject matter.

2. The defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) as follows:

a. By not responding to the discovery requests in the Churches' case, defendant neglected a client matter in violation of Rule 6(b)(3).

b. By not perfecting the appeal of the order granting Blevins' motion for summary judgment, defendant neglected a client matter in violation of Rule 6(b)(3).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments of the parties concerning the appropriate discipline, the hearing committee hereby makes the additional

#### FINDINGS OF FACT REGARDING DISCIPLINE

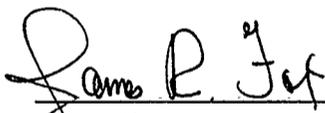
1. The defendant's misconduct is aggravated by the following factors:
  - a. a letter of warning issued by the Grievance Committee in 1995; and
  - b. substantial experience in the practice of law.
2. The defendant's misconduct is mitigated by the following factors:
  - a. absence of a prior disciplinary record;
  - b. good character or reputation; and
  - c. physical disability during the time of the events in this matter.
3. The mitigating factors outweigh the aggravating factors.

Based upon the foregoing aggravating and mitigating factors and the arguments of the parties, the hearing committee hereby enters the following

#### ORDER OF DISCIPLINE

1. The defendant is hereby admonished.
2. The defendant shall pay the costs of this proceeding as assessed by the Secretary within 30 days of this order of discipline being served upon him.

Signed by the chair with the consent of the other hearing committee members, this the 29th day of May, 1998.

  
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James R. Fox  
Hearing Committee Chair