

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
15G0757

IN THE MATTER OF)	
)	CENSURE
W. ANDREW LELIEVER,)	
ATTORNEY AT LAW)	

On January 26, 2017, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by E. G. The grievance was assigned to a Subcommittee, which thoroughly reviewed the results of the State Bar staff's investigation of this matter.

Pursuant to section .0113(a) of the Discipline and Disability Rules of the North Carolina State Bar, the Grievance Subcommittee conducted a preliminary hearing. After considering the information available to it, including your response to the letter of notice, the Grievance Subcommittee 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.

A censure is a written form of discipline more serious than a reprimand, issued in cases in which an attorney has violated one or more provisions of the Rules of Professional Conduct and has caused significant harm or potential significant harm to a client, the administration of justice, the profession or a member of the public, but the misconduct does not require suspension of the attorney's license.

The Grievance Committee believes that a hearing before the Disciplinary Hearing Commission is not required in this case and issues this censure to you. As chairman of the Grievance Committee of the North Carolina State Bar, it is now my duty to issue this censure.

Between August 2014 and July 2015, you represented E.G. in a personal injury matter. Throughout your representation of E.G., you failed to respond to her reasonable inquiries concerning the status of her case, and you failed to inform E.G. of significant developments in her case. You failed to inform E.G. about at least one settlement offer proposed in September 2014. You also failed to timely respond to opposing counsel's discovery requests in E.G.'s case, despite opposing counsel affording ample time to do so and despite entering into a consent order agreeing to specific production deadlines. The opposing party eventually filed a motion for sanctions requesting E.G.'s case be dismissed due to your failure to comply with discovery requests. 4 days prior to the scheduled hearing on the motion for sanctions, the opposing party submitted a final settlement offer. You did not inform E.G. of this final settlement offer. You then failed to attend the hearing on the motion for sanctions, at the conclusion of which the court dismissed E.G.'s case as a sanction for your failure to respond to discovery requests.

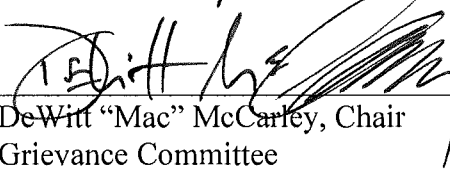
That same day, and after E.G.'s case was dismissed, you informed E.G. of the final settlement offer, which E.G. accepted without knowledge that her case had already been dismissed. When you notified opposing counsel of your client's acceptance of the final settlement offer, opposing counsel informed you that the case had been dismissed. You did not promptly inform E.G. that the case had been dismissed. Instead, in response to E.G.'s inquiries regarding the status of the settlement, you falsely told E.G. that her case was set for trial in October 2015. In addition to misrepresenting the status of the case to E.G., you tried to rectify the consequences of your misconduct by filing a motion for relief without E.G.'s knowledge. E.G. subsequently terminated your representation upon learning through a third party that her case had been dismissed. E.G. had to retain a new attorney to rectify the consequences of your misconduct.

Your neglect of your client's case, ranging from your failure to attend a sanctions hearing on your client's behalf to your failure to comply with discovery requests, and your failure to comply with the court's discovery order violated Rules 1.3 and 3.4(c). Your conduct also violated Rules 1.2(a), 1.4(a)(2), (3), (4), and 1.4(b) in that you failed to timely inform your client of submitted settlement offers, failed to consult with your client about settlement offers and motions to be filed in her case, and generally failed to maintain adequate communication with your client. Lastly, your misrepresentation to E.G. that her case was set for trial when it had actually been dismissed constituted dishonest conduct in violation of Rule 8.4(c).

You are hereby censured by the North Carolina State Bar for your violation of the Rules of Professional Conduct. The Grievance Committee trusts that you will ponder this censure, recognize the error that you have made, and that you will never again allow yourself to depart from adherence to the high ethical standards of the legal profession. This censure should serve as a strong reminder and inducement for you to weigh carefully in the future your responsibility to the public, your clients, your fellow attorneys and the courts, to the end that you demean yourself as a respected member of the legal profession whose conduct may be relied upon without question.

In accordance with the policy adopted July 23, 2010 by the Council of the North Carolina State Bar regarding the taxing of administrative fees and investigative costs to any attorney issued a censure by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

Done and ordered, this 10th day of February, 2017.


DeWitt "Mac" McCarley, Chair
Grievance Committee
The North Carolina State Bar

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