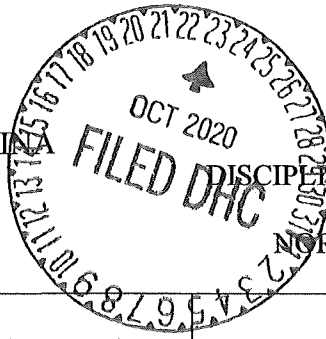


STATE OF NORTH CAROLINA
WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
20 DHC 9

THE NORTH CAROLINA STATE BAR,
Plaintiff

v.

NICOLE A. CRAWFORD, Attorney,
Defendant

ORDER OF DISCIPLINE

THIS MATTER was considered by a Hearing Panel of the Disciplinary Hearing Commission composed of the Chair, Fred W. DeVore, III, and members Margaret M. Hunt and Brian A. Farkas upon Plaintiff's September 18, 2020 Motion for Order of Discipline Based on Default Order. Carmen Hoyme Bannon and Savannah B. Perry represented Plaintiff, the North Carolina State Bar. Defendant Nicole A. Crawford has not appeared in this matter either through counsel or *pro se* and did not respond to Plaintiff's Motion for Order of Discipline Based on Default Order. After review of the record herein and pursuant to 27 N.C. Admin. Code § 1B.0115, the Hearing Panel grants Plaintiff's motion and enters the following Order of Discipline.

The filings of record in this matter establish by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Defendant was properly served with the Summons and Complaint in this matter by the Durham County Sheriff's Office on March 4, 2020.
2. Defendant did not file a responsive pleading and has not otherwise participated in this disciplinary proceeding.
3. Defendant did not respond to Plaintiff's discovery requests and did not comply with the DHC's order compelling her to respond to discovery.
4. The DHC sanctioned Plaintiff for noncompliance with the DHC's order compelling her to respond to discovery.
5. Entry of Default against Defendant was properly made by the Secretary of the State Bar on June 8, 2020.

6. Upon Plaintiff's motion, the Hearing Panel entered a Default Order on June 24, 2020 which established as a matter of law the factual allegations and the violations of the Rules of Professional Conduct alleged in the Complaint.

The following Findings of Fact were established by clear, cogent, and convincing evidence in the Default Order entered by the Hearing Panel on June 24, 2020:

7. Plaintiff, the North Carolina State Bar ("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 General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

8. Defendant, Nicole A. Crawford, was admitted to the North Carolina State Bar in 2003, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

9. During all or part of the relevant periods referred to herein, Crawford was engaged in the practice of law in Greensboro, Guilford County, North Carolina with the firm Brooks, Pierce, McLendon, Humphrey & Leonard ("Brooks Pierce").

10. On January 31, 2017, Gray Grubb filed a lawsuit against Norfolk Southern Railway Company (NSRC) in federal court.

11. Brooks Pierce represented NSRC and Crawford served as lead counsel.

12. On May 30, 2017, Grubb served NSRC with discovery requests by sending them to Crawford.

13. Crawford did not tell NSRC that she received discovery requests.

14. Crawford did not request from NSRC the information necessary to respond to the discovery requests.

15. On June 30, 2017, Grubb's attorney, John Moss, sent Crawford an email that stated, "I think the railroad's discovery responses were due yesterday. When can we expect to receive them?"

16. That same day, Crawford responded by email stating, "I have a tickler notice that [the discovery responses] are due on [July 3, 2017]. I will double check with my associate when I get to the office this afternoon. In any event it is in progress for [July 3, 2017]."

17. Crawford's statement that NSRC's discovery responses were in progress to be completed by July 3, 2017 was false.

18. Crawford knew at the time she stated that NSRC's discovery responses were in progress to be completed by July 3, 2017 that the statement was false.

19. On July 21, 2017, Crawford sent Moss an email that stated, in part, "Sorry for the delay in getting back to you—I've been out since July 5. We're wrapping up responses [to the discovery requests]. . . ."

20. Crawford's July 21, 2017 statement that they were "wrapping up responses" to the discovery requests was false.

21. Crawford knew at the time she stated that they were "wrapping up responses" to the discovery requests that the statement was false.

22. On August 18, 2017, Moss sent Crawford an email that stated, "Someone from your office called and promised me discovery responses – but I still don't have them. Can you let me know where we stand please?"

23. Crawford did not respond to Moss's August 18, 2017 email.

24. On August 29, 2017, Moss re-sent his August 18, 2017 email to Crawford and stated, "See below. Please respond."

25. Crawford did not respond to Moss's August 29, 2017 email.

26. On September 6, 2017, Moss sent Crawford an email that stated, "I have emailed and called you repeatedly and still I have no reply. . . . We will need full complete discovery responses (that are long overdue) well in advance of the [September 18, 2017 deposition] if it is going forward. . . ."

27. Crawford did not respond to Moss's September 6, 2017 email.

28. On September 15, 2017, Crawford indicated to Moss by email that NSRC would serve written discovery responses by September 19, 2017.

29. As of September 15, 2017, Crawford still had not communicated with NSRC regarding Grubb's discovery requests.

30. At the time she indicated to Moss that NSRC would serve written discovery responses by September 19, 2017, Crawford knew that NSRC could not honor that commitment.

31. On September 25, 2017, Moss sent Crawford an email that stated, in part, "We still don't have discovery responses from NSRC. I thought we had this issue behind us. [NSRC] promised answers and responses by [September 19, 2017]."

32. On September 26, 2017, Crawford responded to Moss by email and stated, in part, "My client reviewed the materials last night and I need to make revisions to the discovery

responses we drafted. We are at . . . a corporate training opportunity until tomorrow afternoon and I've sent the material changes to my paralegal for execution."

33. The statements in Crawford's September 26, 2017 email set forth in paragraph 32 were false.

34. Crawford knew at the time she sent the September 26, 2017 email that the statements set forth in paragraph 32 were false.

35. On October 18, 2017, Moss sent Crawford an email that stated, "I fly out tomorrow afternoon. When can you get discovery responses and documents ?? [sic]"

36. That same day, Crawford responded to Moss by email and stated, in part, "I'm still waiting for files from [the] carrier. . . . My paralegal is finalizing batesing [the documents another firm passed on from the Occupational Safety and Health Administration investigation] and sending them today."

37. The statements in Crawford's October 18, 2017 email set forth in paragraph 36 were false.

38. Crawford knew at the time she sent the October 18, 2017 email that the statements set forth in paragraph 36 were false.

39. Grubb's case against NSRC was scheduled for mediation on October 23, 2017.

40. Crawford did not inform NSRC of the scheduled mediation date.

41. At approximately 3:00 a.m. on October 23, 2017, Crawford sent Moss an email that stated that she needed to cancel the mediation because her child was sick.

42. Crawford's stated reason for needing to cancel the mediation was false.

43. Crawford knew at the time she stated that she needed to cancel the mediation because her child was sick that this stated reason for cancelling was false.

44. Crawford cancelled the mediation because she was not prepared, had not notified NSRC of the mediation, and had not arranged for a representative of NSRC to attend.

45. On November 14, 2017, Moss sent Crawford an email that stated, in part, "Please give me a status update on your end re discover [sic] responses and deposition dates."

46. Crawford did not respond to Moss's November 14, 2017 email.

47. On November 15, 2017, Moss re-sent his November 14, 2017 email to Crawford and stated, "See below. I am trying to continue to be gracious, but I feat [sic] that it is going to be at the expense of Mr. Grubb."

48. Crawford did not respond to Moss's November 15, 2017 email.

49. On December 4, 2017, Moss sent Crawford an email that stated, "On October 20, 2017[,] we talked at length . . . about what needed to happen in the event that the case did not settle the next Monday, October 23, 2017. We discussed the discovery owed by [NSRC] that was long long overdue as well as the witnesses that I asked to depose. Then, the mediation did not go forward, and despite my additional requests and follow-up, I have no discovery, no deposition dates and I have not heard anything from you."

50. Crawford did not respond to Moss's December 4, 2017 email.

51. On December 6, 2017, Moss filed a Certification of Counsel, asserting failures by NSRC to cooperate in discovery.

52. On December 7, 2017, the Court scheduled a pretrial conference for December 13, 2017 to address the issues raised in Moss's Certification.

53. Crawford did not tell NSRC that the Court scheduled a pretrial conference for December 13, 2017.

54. On December 13, 2017, approximately two hours before the scheduled pretrial conference, Crawford emailed an NSRC representative requesting some items that NSRC had been asked to produce in discovery. Crawford did not reference any deadline or the fact that there would be a pretrial conference in the case later that afternoon.

55. During the December 13, 2017 pretrial conference, Crawford made the following representations to the Court:

- a. That NSRC had not responded to Crawford's attempts to discuss settlement;
- b. That Crawford had discussed the discovery requests with NSRC and that it would be able to produce responses to the requests by December 15, 2017; and
- c. That Crawford was not prepared for the December 13, 2017 hearing because she had not been working and had not been checking her email during the previous ten days because her child was sick.

56. Crawford's representations to the Court set forth in paragraph 55 were false.

57. Crawford knew at the time she made the representations to the Court set forth in paragraph 55 that the representations were false.

58. The Court continued the pretrial conference to December 22, 2017 based in part on Crawford's commitment that NSRC would serve responses to discovery by December 15, 2017.

59. The Court also ordered a representative of NSRC with settlement authority to appear at the pretrial conference on December 22, 2017 based on Crawford's statement that NSRC had failed to respond to her inquiries about settlement.

60. After the December 13, 2017 pretrial conference, Crawford did not tell NSRC that she had committed it to serving responses to discovery by December 15, 2017.

61. NSRC did not serve responses to discovery on or before December 15, 2017.

62. Crawford did not tell NSRC that the pretrial conference would resume on December 22, 2017 or that the Court had ordered a representative from NSRC with settlement authority to appear.

63. On December 21, 2017, Crawford filed with the Court a signed Motion for Leave Not to Appear and for Continuance ("Motion for Leave"), stating:

- a. That Crawford had been seen at Duke University Medical Center on December 21, 2017 and would be unable to attend the December 22 pretrial conference because she was scheduled for an emergency medical procedure at Durham Regional Hospital on December 22, 2017; and
- b. That NSRC requested a continuance because of Crawford's inability to attend the pretrial conference and Crawford's perceived failure to adequately represent NSRC's interests.

64. Crawford's statements in the Motion for Leave set forth in paragraph 63 were false.

65. Crawford knew at the time she submitted the Motion for Leave to the Court that the statements in the Motion for Leave set forth in paragraph 63 were false.

66. Rule 11 of the Federal Rules of Civil Procedure provides that, "By presenting to the court a . . . written motion . . . an attorney . . . certifies that to the best of [her] knowledge, information, and belief . . . the factual contentions have evidentiary support."

67. Crawford knowingly violated Rule 11 by filing the Motion for Leave that contained false statements of fact.

68. Crawford attached to the Motion for Leave medical documentation that purported to show that Crawford was seen at the hospital on December 21, 2017. The documentation also indicated that Crawford was scheduled for surgery on December 22, 2017 at 11:30 a.m. at Durham Regional Hospital.

69. Crawford had materially altered the medical documentation attached to the Motion for Leave: She altered the dates to make it appear that a prior hospital visit had occurred on December 21, 2017 and that a prior procedure would occur on December 22, 2017.

70. Justin Outling, another Brooks Pierce attorney, was nominally involved in defending NSRC against the case brought by Grubb, but had not participated substantively in the representation prior to or during the December 13, 2017 pretrial conference.

71. On December 22, 2017, Crawford sent an email to Outling informing him that “[NSRC] [was] not sending anyone for the [pretrial conference]” and directing him to make the following representations to the Court:

- a. That “the day after [the] last hearing [Crawford] had a scheduled medical treatment that caused [her] to be incapacitated until early [that] week;”
- b. That “as a result of [Crawford’s] medical and family issues during [the] case there [had] been a breakdown in the attorney client relationship on this matter;” and
- c. That “[Crawford’s] surgery [on December 22, 2017] [was] intended to bring [her] back to full health....”

72. The representations set forth in paragraph 71 that Crawford directed Outling to make to the Court were false.

73. Crawford knew at the time she directed Outling to make the representations set forth in paragraph 71 to the Court that the representations were false.

74. When the pretrial conference reconvened, Outling communicated the representations set forth in paragraph 71 to the Court.

75. The Court directed Outling to obtain additional information regarding NSRC’s failure to send a representative with settlement authority to the December 22, 2017 conference and recessed until 2:00 p.m.

76. Outling called Crawford and left a voicemail message.

77. Crawford returned Outling’s call and told Outling that she had contacted NSRC about the December 22, 2017 pretrial conference immediately after the December 13, 2017 pretrial conference and that, on December 19, 2017, someone from NSRC notified Crawford that NSRC was not sending a representative because the designated representative for the case was on leave from work until January 2018 and no other employee would attend a conference on the Friday before Christmas.

78. Crawford’s representations to Outling set forth in paragraph 77 were false.

79. Crawford knew at the time she made the representations set forth in paragraph 77 that they were false.

80. Crawford knew, at the time she made the false representations set forth in paragraph 77, that Outling would rely on the information as true and relay the information to the Court.

81. Outling relayed the information set forth in paragraph 77 to the Court when the pretrial conference reconvened.

82. The Court concluded that NSRC was in violation of the Order requiring it to have a representative with settlement authority appear at the December 22, 2017 conference and that sanctions were warranted.

83. Shortly after the December 22, 2017 conference, the management at Brooks Pierce launched an investigation into Crawford's handling of the Grubb case.

84. On December 27, 2017, Crawford met with Roger Petersen, General Counsel to NSRC. Crawford acknowledged that there were shortcomings in her representation of NSRC in the Grubb case, explaining that she and her daughter had health issues that had impacted her representation of NSRC.

85. In describing to Petersen the problems in her representation of NSRC, Crawford did not disclose the false representations she had made to the Court or to opposing counsel regarding the Grubb case.

86. That same day, Crawford spoke with Roger King, General Counsel to Brooks Pierce, by phone and walked him through her purported schedule on December 22, 2017. Crawford's account of her schedule on December 22, 2017 included the emergency medical procedure.

87. Crawford's account of her schedule on December 22, 2017 to King was false: She did not have an emergency medical procedure on that date.

88. Crawford knew at the time she provided the account of her schedule on December 22, 2017 to King that the account was false.

89. King later asked Crawford via email to bring documents showing that she had undergone a medical procedure on December 22, 2017 to a meeting with him the following day.

90. On December 28, 2017, Crawford met with King and presented him with altered medical records on which she had changed the dates to make it appear that she had a medical procedure on December 22, 2017.

91. On February 2, 2018, the Court issued a Memorandum Opinion and Order regarding the imposition of sanctions in connection with the pretrial conference on December 22, 2017. The Court relied on Crawford's "unambiguous" representations to find that NSRC willfully failed to send a representative with settlement authority to the December 22, 2017 conference, in direct contravention of the Court's December 13, 2017 Order.

92. Based in part upon its finding that NSRC willfully violated its December 13, 2017 Order, the Court sanctioned NSRC by striking NSRC's answer, ordering the Clerk to enter NSRC's default, ordering Grubb to submit a motion for default judgment, and ordering NSRC

and its counsel to pay the reasonable expenses, including attorneys' fees, incurred by Grubb in connection with the December 22, 2017 pretrial conference.

Based upon the filings of record in this case, the foregoing Findings of Fact, and the June 24, 2020 Default Order, the Hearing Panel makes the following

CONCLUSIONS OF LAW

1. All parties are properly before the Hearing Panel, and the Panel has jurisdiction over Defendant and the subject matter of this proceeding.

2. Defendant's conduct, as established by the June 24, 2020 Default Order and set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Crawford violated the following Rules of Professional Conduct in effect at the time of the conduct:

- (a) By not telling NSRC that she received discovery requests, not requesting from NSRC the information necessary to respond to the discovery requests, and failing to respond to inquiries from Moss regarding NSRC's responses to discovery, Crawford failed to act with reasonable diligence and promptness in representing her client in violation of Rule 1.3, failed to keep her client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3), failed to make reasonable efforts to expedite litigation consistent with the interests of her client in violation of Rule 3.2, and failed to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party in violation of Rule 3.4(d)(2);
- (b) By knowingly making false statements to Moss regarding NSRC's responses to discovery on June 30, 2017 and July 21, 2017, Crawford made false statements of material fact to a third person in violation of Rule 4.1 and engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c);
- (c) By indicating to Moss that NSRC would serve discovery responses by September 19, 2017 when she knew that NSRC could not honor that commitment, Crawford engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c);
- (d) By knowingly making false statements to Moss regarding NSRC's overdue responses to discovery on September 26, 2017 and October 18, 2017, Crawford made false statements of material fact to a third person in violation of Rule 4.1 and engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c);

- (e) By not informing NSRC of the scheduled mediation date, Crawford failed to keep her client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3);
- (f) By knowingly providing a false reason for needing to cancel the scheduled mediation, Crawford made a false statement of material fact to a third person in violation of Rule 4.1 and engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c);
- (g) By failing to prepare for the scheduled mediation, notify NSRC of the mediation, or arrange for a representative of NSRC to attend the mediation, Crawford failed to act with reasonable diligence and promptness in representing her client in violation of Rule 1.3;
- (h) By not telling NSRC that the Court scheduled a pretrial conference for December 13, 2017, Crawford failed to keep her client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3);
- (i) By knowingly making false representations to the Court on December 13, 2017, Crawford made false statements of material fact to a tribunal in violation of Rule 3.3(a)(1), engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (j) By not telling NSRC after the December 13, 2017 conference (i) that she had committed it to serving responses to discovery by December 15, 2017, (ii) that the pretrial conference would resume on December 22, 2017, and (iii) that the Court had ordered a representative of NSRC with settlement authority to appear at the December 22, 2017 pretrial conference, Crawford failed to keep her client reasonably informed about the status of the matter in violation of Rule 1.4(a)(3);
- (k) By failing to ensure that NSRC served responses to discovery on or before December 15, 2017 as promised, Crawford failed to act with reasonable diligence and promptness in representing her client in violation of Rule 1.3;
- (l) By knowingly making false statements to the Court in the Motion for Leave, Crawford made false statements of material fact to a tribunal in violation of Rule 3.3(a)(1), knowingly disobeyed an obligation under the rules of the tribunal (i.e., Rule 11 of the Federal Rules of Civil Procedure) in violation of Rule 3.4(c), engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);

- (m) By altering the dates on the medical record attached to the Motion for Leave to support the false statements she made in the Motion for Leave, Crawford knowingly offered to the Court evidence she knew to be false in violation of Rule 3.3(a)(3), falsified evidence in violation of Rule 3.4(b), engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d);
- (n) By directing Outling to make representations to the Court during the December 22, 2017 conference that she knew to be false and by providing Outling with additional false information that she knew he would rely upon as true and relay to the Court, Crawford made false statements of material fact to a tribunal in violation of Rule 3.3(a)(1), made false statements of material fact to a third person in violation of Rule 4.1, violated the Rules of Professional Conduct through the acts of another in violation of Rule 8.4(a), and engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c);
- (o) By falsely representing to Outling that NSRC had refused to comply with the Court's Order requiring NSRC to have a representative with settlement authority appear at the December 22, 2017 pretrial conference, knowing that Outling would rely upon that information as true and relay that information to the Court, Crawford intentionally prejudiced or damaged her client during the course of the professional relationship in violation of Rule 8.4(g);
- (p) By not disclosing to Petersen the false representations she made to the Court or to opposing counsel regarding the Grubb case when she told Petersen about the issues that had impacted her representation of NSRC, Crawford failed to explain the matter to the extent reasonably necessary to permit her client to make informed decisions regarding the representation in violation of Rule 1.4(b) and engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c); and
- (q) By knowingly providing a false account of her schedule on December 22, 2017 to King and by presenting King with altered medical records, Crawford engaged in conduct involving dishonesty, deceit, or misrepresentation that reflects adversely on her fitness as a lawyer in violation of Rule 8.4(c).

3. Defendant's conduct, as established by the filings of record in this matter and set forth in the Findings of Fact above, also constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(3) for failure to answer a formal inquiry or complaint issued by or in the name of the North Carolina State Bar in a disciplinary matter.

4. Section .0115(g)(2)(B) of the State Bar Discipline and Disability Rules provides that, upon entry of the defendant's default, State Bar counsel may then apply to the hearing panel

for a default order imposing discipline, and “the hearing panel shall enter an order making findings of fact and conclusions of law as established by the facts deemed admitted by default” and “if such facts provide sufficient basis, the hearing panel shall enter an order imposing the discipline deemed to be appropriate.”

5. The hearing panel may, but is not required, to hear additional evidence to determine appropriate discipline before entering an order of discipline. 27 N.C. Admin. Code § 1B.0115(g)(2)(B).

6. State Bar counsel applied to the hearing panel for a default order imposing discipline in its September 18, 2020 Motion for Order of Discipline Based on Default Order.

7. Additional evidence is not necessary to determine the appropriate discipline in this case.

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Panel hereby finds by clear, cogent and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The findings of fact in paragraphs 1 – 92 above are reincorporated as if set forth herein.

2. Defendant’s failure to render basic legal services on behalf of her client or communicate with her client about critical developments in the case was a complete abdication of her duty to diligently represent her client and protect her client’s interests that foreseeably caused significant harm to her client.

3. Defendant’s lack of diligence and dishonesty delayed and protracted litigation of the case, which foreseeably caused harm to the opposing party and the administration of justice.

4. Defendant knowingly and intentionally made repeated false statements to opposing counsel over a period of approximately six months. Although some of those false statements may have been impulsive acts of dishonesty, there is no evidence that Defendant made any efforts to remediate the harm caused by her misrepresentations.

5. On multiple occasions, Defendant intentionally and willfully made false statements to the court.

6. Defendant’s decision to intentionally alter medical records for the purpose of supporting the false statements in her Motion for Leave was a premeditated plan to defraud the court.

7. Defendant’s extensive pattern of dishonesty demonstrates that she lacks the requisite character and trustworthiness required of members of the bar.

8. Defendant elevated her own interests above the interests of her client and acted with selfish motive when she falsely blamed her client for her own failures in handling the case.

9. Defendant intentionally caused significant harm to her client and impaired the client's ability to achieve the goals of the representation by failing to diligently represent the client and by deliberately and falsely blaming the client for her own failures in order to avoid responsibility: As a direct result of those false statements to the court, the client was sanctioned and ordered to pay attorney's fees.

10. Defendant willfully disregarded an order of the court by failing to inform her client that the court required a representative with settlement authority to attend the pretrial conference. It undermines the administration of justice when a lawyer refuses to comply with an order of the court.

11. Defendant caused another lawyer to unwittingly deceive the court. This conduct demonstrates not only utter disregard for lawyers' duty of candor to the tribunal, but a willingness to betray her colleagues, which further reflects Defendant's lack of trustworthiness.

12. Defendant's failure to inform her law firm about her course of dishonest conduct when directly questioned about what happened in the case constituted lies of omission that thwarted the firm's ability to take any remedial action to protect the client's interests.

13. Defendant's course of conduct described above was not attributable to inexperience, as she had been licensed to practice law for 14 years at the time of the misconduct.

14. By refusing to answer the complaint filed in this case, respond to discovery, comply with the DHC's order compelling discovery, or otherwise participate in this disciplinary proceeding, Defendant failed to participate in the self-regulation of the legal profession. Such conduct foreseeably causes harm to the profession.

15. The Hearing Panel finds by clear, cogent, and convincing evidence any additional facts that may be contained in the conclusions regarding discipline set out below.

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings Regarding Discipline, the Hearing Panel enters the following

CONCLUSIONS REGARDING DISCIPLINE

1. The Hearing Panel carefully considered all the different forms of discipline available to it and all of the factors relevant to determining the appropriate discipline enumerated in 27 N.C. Admin. Code § 1B.0116(f)(1), (2) and (3).

2. The following factors in 27 N.C. Admin. Code § 1B.0116(f)(1), which shall be considered in imposing suspension or disbarment, are applicable in this case:

- a. Intent of Defendant to cause the resulting harm or potential harm;
- b. Intent of Defendant to commit acts where the harm or potential harm is foreseeable;
- c. Circumstances reflecting Defendant's lack of honesty, trustworthiness, or integrity;
- d. Elevation of Defendant's own interest above those of her client;
- e. Negative impact of the Defendant's actions on the administration of justice;
- f. Impairment of the client's ability to achieve the goals of the representation;
- g. Effect of Defendant's conduct on third parties;
- h. Acts of dishonesty, misrepresentation, deceit or fabrication; and
- i. Multiple instances of failure to participate in the legal profession's self-regulation process.

3. The following factors in 27 N.C. Admin. Code § 1B.0116(f)(2), which require the Hearing Panel to consider disbarment, are applicable in this case:

- a. Acts of dishonesty, misrepresentation, deceit, or fabrication; and
- b. Impulsive acts of dishonesty, misrepresentation, deceit, or fabrication without timely remedial efforts.

4. The following factors in 27 N.C. Admin. Code § 1B.0116(f)(3), which are considered in all cases, are applicable in this case:

- a. Dishonest or selfish motive;
- b. A pattern of misconduct;
- c. Multiple offenses;
- d. Bad faith obstruction of the disciplinary proceedings by intentionally failing to comply with rules or orders of the disciplinary agency; and
- e. Degree of experience in the practice of law.

5. The factors present under 27 N.C. Admin. Code § 1B.0116(f) described above support the conclusion that disbarment is the appropriate discipline in this case.

6. A fiduciary relationship exists where “special confidence [is] reposed in one who in equity and good conscience is bound to act in good faith and with due regard to the interests of the one reposing confidence.” *Link v. Link*, 278 N.C. 181, 192 (1971). The fiduciary “relationship between attorney and client is based upon the utmost trust and confidence. This relationship imposes ‘high duties and responsibilities’ on the attorney.” *Booher v. Frue*, 86 N.C. App. 390, 394 (1987) (quoting *Mebane v. Broadnax*, 183 N.C. 333, 335 (1922)).

7. Defendant’s severe neglect of her client’s case and attempt to avoid opprobrium by falsely blaming her client for her own shortcomings are antithetical to the trust inherent in a fiduciary relationship and an egregious violation of Defendant’s duty of care.

8. An attorney’s duty of candor towards the tribunal is paramount, elevated above even a lawyer’s fundamental duty to maintain client confidences. *See* N.C. R. Prof’l Conduct 3.3. Accordingly, lawyers must always be honest and forthright with the tribunal. It is unacceptable for a lawyer to be anything less than completely candid with the court. On multiple occasions, Defendant made false statements to the tribunal in violation of her fundamental obligation as an officer of the court.

9. Attorneys as officers of the court have a duty to avoid conduct that undermines the integrity of the adjudicative process. When an attorney makes false statements to the court (or intentionally causes an unwitting colleague to do so) it causes significant harm to the profession and the administration of justice. Although much of the resulting harm is due to the intangible erosion of judges’ and lawyers’ ability to rely on another attorney’s word, sometimes the impact on the administration of justice is more concrete, as was the case when Defendant’s dishonesty to the court resulted in sanctions against her client.

10. Defendant’s refusal to participate in this disciplinary proceeding before the DHC results in potential significant harm to the profession and to the public. The legal profession is entrusted with the privilege of self-regulation. The State Bar can only regulate the profession if its members respond to inquiries of the State Bar and otherwise participate in the self-regulatory process. Defendant’s failure to participate in this disciplinary proceeding and comply with an order of the DHC shows an unacceptable disregard for the regulatory authority of the State Bar and of this tribunal. Defendant’s refusal to participate in this process impedes effective self-regulation and jeopardizes the privilege of the profession to remain self-regulating.

11. The Hearing Panel has considered lesser alternatives and finds that suspension of Defendant’s license or a public censure, reprimand, or admonition would not be sufficient discipline because of the gravity of the actual and potential harm to her client, the public, the administration of justice, and the legal profession caused by Defendant’s conduct, and the threat of potential significant harm Defendant poses to the public.

12. The Hearing Panel considered all lesser sanctions and finds that discipline short of disbarment would not adequately protect the public for the following reasons:

- a. Entry of an order imposing less serious discipline would fail to acknowledge the seriousness of the offenses Defendant committed and would send the wrong message to attorneys and the public regarding the conduct expected of members of the Bar of this State;
- b. When a lawyer has demonstrated willingness to intentionally harm a client to whom she owed a fiduciary duty, engaged in a calculated pattern of deceit towards multiple people and the court, and refused to even attempt to explain her misconduct through participation in the disciplinary process, the lawyer poses an unacceptable risk of significant harm to the public, potential clients, and the profession; and
- c. The protection of the public and the legal profession requires that Defendant not be permitted to resume the practice of law until she demonstrates the following: that she has reformed; that she understands her obligations to her clients, the public, and the legal profession; and that permitting her to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice. Disbarred lawyers are required to make such a showing before they may resume practicing law.

Based on the foregoing Findings of Fact, Conclusions of Law, and Additional Findings of Fact and Conclusions of Law Regarding Discipline, the Hearing Panel hereby enters the following


ORDER OF DISCIPLINE

1. Defendant, Nicole A. Crawford, is hereby DISBARRED from the practice of law.
2. Defendant shall surrender her North Carolina law license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.
3. Defendant shall pay the fees and the costs of this proceeding as assessed by the Secretary of the North Carolina State Bar. Defendant must pay the fees and costs within 30 days of service upon her of the statement of fees and costs by the Secretary.
4. Defendant shall comply with all provisions of 27 N.C. Admin. Code § 1B.0128 of the North Carolina State Bar Discipline and Disability Rules.
5. Within 15 days of the effective date of this Order, Defendant shall provide the State Bar with an address and telephone number at which clients seeking return of files can communicate with Defendant and obtain such files. This address must be a physical address at

which Defendant maintains a consistent presence and receives mail. Defendant must keep this information current with the State Bar, providing updated information to the State Bar within 15 days of any change.

6. Defendant shall promptly return client files in her possession, custody, or control to clients upon request, within 5 days of receipt of such request. Defendant will be deemed to have received any such request 3 days after the date such request is sent to Defendant, if the request is sent to the address Defendant provided the State Bar pursuant to the preceding paragraph or to Defendant's address of record with the State Bar if Defendant fails to provide another address pursuant to the preceding paragraph.

Signed by the Chair with the consent of the other Hearing Panel members, this the 23 day of October, 2020.



Fred W. DeVore, III, Chair
Disciplinary Hearing Panel