

17856

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
98G0201(IV)

IN THE MATTER OF)

MICHAEL DEMAYO,)
ATTORNEY AT LAW)

REPRIMAND

On January 13, 1999, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Julie Simpson.

Pursuant to section .0113(a) of the Discipline and Disability Rules 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, a reprimand, or a 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.


Between at least 1994 and 1997, you have represented many plaintiffs in personal injury actions. Pursuant to your representation of these clients, you and your staff routinely prepared settlement packages which contained information concerning your clients' injuries and medical treatment stemming from the accident in question. It was your practice to direct your staff to redact from the medical records and documents in the settlement packages information concerning pre-accident medical treatment and representation by previous attorneys. Your staff performed the redactions by whiting out or covering up the information and then recopying the

documents in such a way that the information was not visible and it was not apparent that redactions had been made. Your settlement packages omitted medical and other information which was relevant and material to the nature and the extent of your clients' injuries and damage. Your communications to the insurance companies in such claims failed to disclose that material information in the settlement packages had been redacted. By failing to disclose to the insurance companies that material had been redacted from the information which you submitted in your settlement packages, you engaged in conduct involving a misrepresentation in violation of Rule 1.2(c) of the former Rules of Professional Conduct.

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 30 day of August, 1999.


James K. Dorsett, III
Chair, Grievance Committee