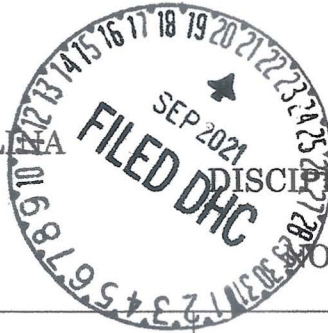


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
21 DHC 5

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

LONNIE P. MERRITT, Attorney,

Defendant

ORDER OF DISCIPLINE

THIS MATTER was heard on 23 August 2021 by a Hearing Panel of the Disciplinary Hearing Commission composed of Fred W. DeVore, III, Chair, Brian O. Beverly, and Heath R. Jenkins. Carmen Bannon and Elizabeth Foley represented Plaintiff, the North Carolina State Bar. Defendant, Lonnie P. Merritt, was represented by Lucky Narain.

Based upon the pleadings, stipulations, and evidence presented at the hearing, the Hearing Panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, 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 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).

2. Defendant, Lonnie P. Merritt, was admitted to the North Carolina State Bar in August 2008, 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.

3. During all or part of the relevant periods referred to herein, Merritt was engaged in the practice of law in Wilmington, New Hanover County, North Carolina.

4. Merritt was properly served with the summons and complaint in this matter.

5. C.T. hired Merritt in March 2018 for representation in her domestic case.

6. On Saturday 4 August 2018, Merritt went to C.T.'s home to have her sign a consent order regarding equitable distribution, alimony, child custody, and child support.

7. After C.T. signed the document, Merritt perceived that there was a mutual attraction, so he asked permission to kiss C.T. and she said yes. When they broke away from "making out" C.T. stated they could not "go any further," so they did not have sexual intercourse that day.

8. C.T.'s spouse didn't sign the consent order until 8 August 2018, and it wasn't filed until 23 August 2018.

9. After their interaction on 4 August 2018, Merritt and C.T. began a romantic relationship that included lengthy late-night phone calls.

10. In mid-September 2018, Hurricane Florence hit the Wilmington area. After the storm, Merritt stayed with C.T. at C.T.'s mother's house for two days. Merritt then stayed with C.T. at her home for several more days. Merritt and C.T. began having sex.

11. Merritt filed a complaint for absolute divorce on C.T.'s behalf on 26 September 2018 and continued to represent C.T. until her divorce was finalized in November 2018.

Based on the record and the foregoing Findings of Fact, the Hearing Panel makes the following:

#### CONCLUSIONS OF LAW

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

2. 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) in that Merritt violated the Rules of Professional Conduct in effect at the time of his conduct as follows:

(a) By "making out" with C.T. at her home because he "perceived a mutual attraction," Defendant attempted to engage in sexual relations with a current client in violation of Rule 8.4(a); and

- (b) By engaging in a sexual relationship with his current client, Defendant violated Rule 1.19(a).

Based upon the foregoing Findings of Fact and Conclusions of Law, and the additional evidence regarding discipline presented at the hearing, 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 through 11 above are reincorporated as if fully set forth herein.

2. Defendant has no prior professional discipline.

3. Defendant's conduct demonstrates that he had inadequate boundaries between his professional and personal relationships.

4. At the time Defendant began an intimate relationship with C.T., it was foreseeable that his actions would undermine the fiduciary relationship that he shared with her. By choosing to undermine the fiduciary attorney-client relationship, Defendant intentionally caused harm to the client and the profession.

5. Litigants in domestic cases experience significant turmoil. They frequently have serious and distressing concerns about their financial futures, living arrangements, and the welfare of their children. As a result, they are often distressed, anxious, and incapable of making dispassionate and well-informed decisions. They may be particularly reliant upon counsel to protect their interests. This makes litigants in domestic cases, including C.T., an especially vulnerable segment of the population.

6. There is no indication that Defendant had sexual relationships with other clients or that there is a pattern of such misconduct.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Additional Findings of Fact Regarding Discipline, and upon consideration of the factors set forth in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0116(f), the Hearing Panel hereby enters the following additional

#### CONCLUSIONS OF LAW REGARDING DISCIPLINE

1. The Hearing Panel considered all the factors enumerated in 27 N.C.A.C. 1B § .0116(f) of the Discipline and Disciplinary Rules of the North Carolina State Bar.

2. The Hearing Panel concludes that the following factors from § .0116(f)(1), which are to be considered in imposing suspension or disbarment, are present in this case:

- (a) intent of the defendant to cause the resulting harm or potential harm; and
- (b) elevation of the defendant's own interest above that of the client.

3. The Hearing Panel has carefully considered all the factors enumerated in Rule .0116(f)(2) and concludes that none of the factors that require consideration of disbarment are present.

4. The Hearing Panel concludes that the following factors from § .0116(f)(3), which are to be considered in all cases, are present in this case:

- (a) the absence of prior disciplinary offenses in this state or any other jurisdiction;
- (b) selfish motive;
- (c) a pattern of misconduct;
- (d) vulnerability of victim; and
- (e) degree of experience in the practice of law.

5. The Hearing Panel has considered admonition, reprimand, and censure as potential discipline but finds that admonition, reprimand, or censure would not be sufficient discipline because of the gravity of the harm to the administration of justice and the potential harm to the public and the profession in the present case.

6. Discipline short of suspension would not adequately protect the public, the legal profession or the administration of justice for the following reasons:

- (a) The factors under Rule .0116(f)(1) are of a nature that support imposition of a suspension as the appropriate discipline; and
- (b) 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 to the public regarding the conduct expected of members of the Bar of this state.

7. The Hearing Panel finds and concludes that the public will be adequately protected by a one-year suspension of Defendant's license to practice law.

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

#### ORDER OF DISCIPLINE

1. Defendant's license to practice law in the State of North Carolina is hereby suspended for one year, beginning 30 days from the date of service of this order upon Defendant.

2. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 45 days following service of this order upon Defendant.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0128 ("Obligations of Disbarred or Suspended Attorneys"). As provided in § .0128(d), Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

4. The administrative fees and costs of this action are taxed to Defendant. Defendant must pay the costs of this action within 30 days of service upon him of the statement of costs by the Secretary.

5. Within 30 days after service of this Order, Defendant shall provide the State Bar's Office of Counsel with an address and telephone number at which clients seeking their files can communicate with Defendant. Defendant shall promptly return all files to his clients upon request.

6. At the conclusion of the one-year suspension period, Defendant may seek reinstatement of his law license by filing a petition with the Secretary of the North Carolina State Bar demonstrating by clear, cogent, and convincing evidence that, in addition to complying with the general provisions for reinstatement listed in 27 N.C.A.C. 1B § .0129 of the North Carolina State Bar Discipline & Disability Rules, Defendant has complied with the following conditions:

- (a) That Defendant has kept the North Carolina State Bar Membership Department advised of his current business and home addresses and notified the State Bar of any change in address within ten days of such change;

- (b) That Defendant has accepted all certified mail from the North Carolina State Bar, responded to all communications from the State Bar by the deadline stated in the communication, and participated in good faith in the State Bar's fee dispute resolution process for any petition received after the effective date of this Order;
  - (c) That Defendant has not violated the Rules of Professional Conduct or the laws of the United States or any state or local government during his suspension, other than minor traffic violations;
  - (d) That Defendant paid the costs of this action within 30 days after service of the statement of costs; and
  - (e) That Defendant properly wound down his law practice and complied with the requirements of §.0128 of the North Carolina State Bar Discipline and Disability Rules.
7. Defendant may file the petition for reinstatement up to 30 days prior to the end of the suspension period but will not be reinstated until he has served at least one year of active suspension.

Signed by the Chair with the consent of the other Hearing Panel members, this the 21 day of September, 2021.



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Fred W. DeVore, III, Chair  
Disciplinary Hearing Panel