

9131

STATE OF NORTH CAROLINA

COUNTY OF WAKE

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
90G0566 (II)

IN THE MATTER OF)

JOHN BURLON)
ATTORNEY AT LAW)

REPRIMAND

On July 16, 1992, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by The North Carolina State Bar.

Pursuant to section 13(A) of article IX of the Rules and Regulations 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, reprimand, or 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.

You represented Michael E. Seagroves in a divorce action against his wife, Claudia Seagroves. Mr. Seagroves informed you that he and Mrs. Seagroves lived in the same house at the time that he claimed the parties separated. However, you alleged in the Complaint for Absolute Divorce filed on April 8, 1987 that Mr. and Mrs. Seagroves separated on or about March 26, 1986 and that they "had remained separate and apart since that time". At the time the complaint was filed on April 8, 1987, the parties had not remained separate and apart as they were living together in the same house.

You prepared a divorce judgment which indicated that Mr. and Mrs. Seagroves separated as of March 26, 1986, that it was the intention of Mr. Seagroves to cease matrimonial cohabitation with Mrs. Seagroves, and that Mr. and Mrs. Seagroves had lived separate and apart from each other since their separation and had at no time resume matrimonial cohabitation.

However, in your response to the Grievance Committee, you indicated that Mr. Seagroves informed you that he and his wife had not "regularly" slept together nor was Mr. Seagroves involved with Mrs. Seagroves "romantically or otherwise on a regular day to day basis".

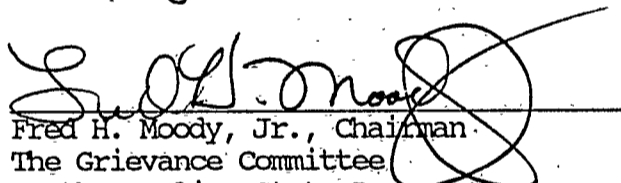
The Grievance Committee was concerned that the pleadings you filed on behalf of Mr. Seagroves were misleading and did not affirmatively disclose all the facts pertaining to the Seagroves' separation. The case law at the time of the filing of the divorce complaint established that separation meant the cessation of cohabitation. Cohabitation was defined by North Carolina case law as living together as man and wife, including the parties' involvement in sexual relations. You have indicated that you knew that Mr. and Mrs. Seagroves had sexual relations on an irregular basis and were involved romantically, albeit irregularly.

Your conduct violated Rule 1.2(C) and (D) of the Rules of Professional Conduct. As an officer of the court, you have an ethical obligation to be completely truthful with the court. All factual circumstances must be disclosed to the court so that a proper decision can be made.

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 22 day of September, 1992.


Fred H. Moody, Jr., Chairman
The Grievance Committee
North Carolina State Bar

[232]

00942