

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
21G0005

IN THE MATTER OF)
)
PETER R. HENRY,) REPRIMAND
ATTORNEY AT LAW)

On July 15, 2021, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by G.L. 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 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.

You represented D. LLC, of which Mr. L. is a member/manager, in a lawsuit regarding the LLC's ownership in some property. The plaintiff in the lawsuit served discovery requests on your client. You claim that you mailed responses to the discovery to the plaintiff. The plaintiff moved for summary judgment and cited, in part, your lack of response to the discovery requests. In your response to this grievance, you stated that when you learned that "Plaintiff had not received the discovery responses, I emailed a copy of the discovery responses to Plaintiffs' counsel. However, it appears that I emailed an unsigned copy of the discovery responses."

The court granted the plaintiff's summary judgment motion and held that your client did not "timely or properly respond to the Requests for Admission, Interrogatories, and Requests for Production of Documents served on each of them respectively, by Plaintiff." The court further held that the requests for admissions were deemed admitted pursuant to Rule 36 of the North Carolina Rules of Civil Procedure. Your failure to properly respond to the discovery violated Rule 1.3 and Rule 8.4(d).

You stated in your response to this grievance that you appealed the summary judgment order and that you served the notice of appeal on the plaintiff's attorney and the third-party plaintiffs' attorney on November 19, 2020. Neither the plaintiff's attorney nor the third-party plaintiffs' attorney knew anything about an appeal of the order until they were contacted during the course of the investigation of this grievance. In addition, neither attorney has been served with the notice of appeal. The Grievance Committee saw a pattern of conduct where you claim you mailed discovery or a notice of appeal to opposing counsel but opposing counsel assert that they never received the discovery or notice of appeal. The Grievance Committee found that your assertions are misleading in violation of Rule 8.4(c).


In your response to this grievance, you stated that your client's Motion to Dismiss "was ultimately not heard." You further stated that it appeared that you did not respond to Mr. L. about a new court date for the Motion to Dismiss, which was not heard. The Motion to Dismiss was heard on June 24, 2019, and later dismissed by the court. You were supposed to draft an order of dismissal and submit it to the judge for his signature. The opposing counsel in the case was never served with an executed order denying the motion.

In response to additional questions, you stated that you were "apparently mistaken" about the motion to dismiss not being heard. Rule .0112(c) of the State Bar's Discipline and Disability Rules require a lawyer to respond to a letter of notice with a "full and fair disclosure of all facts and circumstances pertaining to the alleged misconduct." You were obligated to review the file and any other information necessary to provide a full and fair disclosure of all facts and circumstances when you responded to the grievance, so as to avoid giving incorrect information to the Grievance Committee. Your failure to provide a full and fair disclosure of the facts in your response violated Rule 8.4(d).

You are hereby reprimanded by the North Carolina State Bar for 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 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 reprimand by the Grievance Committee, an administrative fee in the amount of \$350.00 is hereby taxed to you.

This the 25th day of August, 2021.



Matthew W. Smith, Chair
Grievance Committee