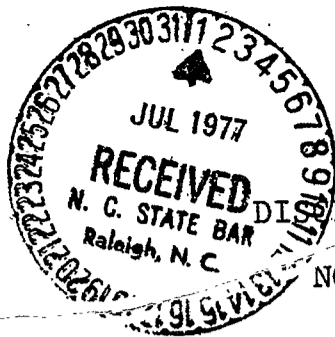


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NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR

THE NORTH CAROLINA STATE BAR, )  
Plaintiff )

vs. )

MICHAEL C. TROY, ATTORNEY, )  
Defendant )

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

This cause coming on to be heard and being heard before the undersigned trial committee of the Disciplinary Hearing Commission of The North Carolina State Bar on June 3, 1977, at the Wake County Courthouse, Raleigh, North Carolina, at 10:00 o'clock a.m., and said trial committee having heard the evidence and argument of counsel, make the following findings of fact:

1. The 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.

2. The defendant, Michael C. Troy, is a citizen and resident of Durham County, North Carolina and was admitted to The North Carolina State Bar in 1962, and is, and was at all times relevant to this proceeding, an attorney at law licensed to practice law in the State of North Carolina and is subject to the rules, regulations, canons of ethics and Code of Professional Responsibility of The North Carolina State Bar and the laws of the State of North Carolina.

3. On December 3, 1966 Garland Worth Gibson, Jr., a minor, was struck by an automobile driven by James Douglas Traylor, also a minor. Gibson suffered head injuries and was hospitalized. Majorie Gibson, the mother of the injured boy, contacted attorney William R. Winders concerning the injuries, who referred her to defendant Troy.

4. On April 16, 1968, defendant filed a lawsuit in the Superior Court of Durham County on behalf of Garland Worth Gibson, Jr., minor, against James Douglas Traylor, minor, and Gloria Traylor, for personal injuries sustained in the automobile accident.

5. On June 21, 1968, defendant, who was at the time working as an Assistant Solicitor on a part-time basis in Durham County, had Anthony M. Brannon, Solicitor, named as guardian ad litem in the case, by order of Alton Knight, Clerk of Superior Court for Durham County.

6. Answer was filed on behalf of Gloria Traylor on August 19, 1968, by the firm of Bryant, Lipton, Bryant and Battle of Durham, North Carolina.

7. Answer was filed on behalf of James Douglas Traylor on February 19, 1969, by the firm of Bryant, Lipton, Bryant and Battle of Durham, North Carolina.

8. James Douglas Traylor died on October 21, 1969. Defendant Troy learned this fact some two or three months later.

9. The case of Garland Worth Gibson, Jr. against James Douglas Traylor and Gloria Traylor was placed upon the Motion Docket in the Superior Court of Durham County for the November 8, 1971 term, though there was no motion pending in the case and defendant Troy had not been contacted by attorneys for the Traylor's to move for dismissal. A copy of the court calendar was mailed to defendant Troy by Mrs. J. H. Bridges, Deputy Clerk of Court on October 22, 1971.

10. On November 11, 1971, a Judgment was signed by Superior Court Judge Henry McKinnon, Jr. stating that defendant Troy had failed to take steps to cause a substitution of parties after the death of James Douglas Traylor, and that the action was dismissed with prejudice for failure to prosecute.

Defendant Troy was not present when the Judgment was signed.

11. Based on the foregoing findings of fact, the trial committee makes the following conclusions of law:

A. The conduct of the defendant as set forth above constitutes a violation of North Carolina General Statutes 84-28 (b) (2), in that he did not take steps to substitute parties after the death of James Douglas Traylor and he failed to take notice of calendaring of the case in Superior Court, resulting in dismissal with prejudice, in violation of Disciplinary Rule 6-101(A) (3) of the Code of Professional Responsibility of the North Carolina State Bar.

B. The conduct of the defendant as set forth above does not constitute an additional violation of North Carolina General Statutes 84-28 (b) (2) as alleged, in that The North Carolina State Bar failed to show that the defendant deliberately prejudiced and damaged his client in violation of Disciplinary Rule 7-101(A) (3) of the Code of Professional Responsibility of the North Carolina State Bar.

An Order will issue in accordance with these findings of fact and conclusions of law.

This the 22<sup>nd</sup> day of June, 1977.

J. Mac Boxley  
J. Mac Boxley, Chairman

Mary Alice Warren  
Mary Alice Warren

William Owen Cooke  
William Owen Cooke



NORTH CAROLINA  
WAKE COUNTY

BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
77DHC5

THE NORTH CAROLINA STATE BAR, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MICHAEL C. TROY, Attorney, )  
 )  
Defendant. )

ORDER

THE HEARING COMMITTEE having found the facts and made conclusions of law in above-entitled action

IT IS NOW, THEREFORE, ORDERED:

1. That the defendant, Michael C. Troy, be disciplined under the provision of North Carolina General Statutes 84-28(c)(4) private reprimand, and that the letter of reprimand be prepared by the Chairman of the Disciplinary Hearing Committee and delivered to the defendant in the office of The North Carolina State Bar, 107 Fayetteville Street, Raleigh, North Carolina, by the Secretary of The North Carolina State Bar, a copy of said reprimand to be filed with the Secretary of The North Carolina State Bar.

2. That the costs of this disciplinary action be paid by the defendant, Michael C. Troy.

This the 20<sup>th</sup> day of June, 1977.

*J. Mac Boxley*  
\_\_\_\_\_  
J. MAC BOXLEY, Chairman

*Mary Alice Warren*  
\_\_\_\_\_  
MARY ALICE WARREN

*William Owen Cooke*  
\_\_\_\_\_  
WILLIAM OWEN COOKE