

15549

NORTH CAROLINA

WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
96G0121(II)R

IN THE MATTER OF)	
)	
LINDA M. PITTS,)	REPRIMAND
ATTORNEY AT LAW)	
)	

On October 16, 1996, the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by Marc Bagwell.

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.

Marc A. Bagwell was injured when an elevator in the Commerce Building fell from the third floor to the basement. Bagwell retained you to represent him in claims arising out of the elevator accident. You filed a workers' compensation claim on Bagwell's behalf which you concluded. You

also filed a civil action against the elevator company and the managers of the Commerce Building. Bagwell's civil action was ultimately discontinued for your failure to renew summonses and have them served on the defendants. The statute of limitations on Bagwell's claim expired. You discovered that Bagwell's claim had been discontinued in June 1995. You failed to promptly advise Bagwell that his claim had expired and that he might have a malpractice claim against you. Your neglect of Bagwell's civil claim constituted violations of Rules 7.1(a)(1), (2) and (3). Your failure to promptly communicate to Bagwell that his claim had been dismissed constituted a violation of Rules 6(b)(1), (2) and (3).

During the 10th District Bar's Investigation of Bagwell's grievance, you provided an initial response dated April 20, 1996. That response contained a detailed chronology of all of your activity in your representation of Bagwell up through a final entry for June-July 1995 at which time you indicated you discovered the summonses had lapsed for lack of renewal. After receiving a telephone call from the investigating member of the 10th District Bar's Grievance Committee concerning whether you had any communications with Bagwell after discovering that the summonses had lapsed, you filed a supplemental response dated May 15, 1996. In that response, you indicated that you had had a conversation with Bagwell on or about August 2, 1995 in which you had disclosed that you had failed to renew the summonses in a timely manner. In addition, you indicated that the lapsed summonses problem arose because of the following sequence of events:

June 3, 1994	Summons issued and complaint filed
September 2, 1994	Summons renewed because no service on defendant(s) yet
November 15, 1994	Instructions to secretary to renew summonses because no service on defendant(s)
December 2, 1994	Secretary tells me she renews summonses
June 3, 1995	Discovered summonses not renewed in December 1994

The last three of the dates in the supplemental response were each important events and were new events which had not been included in your April 20, 1996 response. Particularly important because of its exculpatory nature was the December 2, 1994 entry indicating that your secretary had told you that she had renewed the summonses. That additional fact, were it true, certainly would have been included in your April 20, 1996 response.

Bagwell also denied having received any communication from you on August 2, 1995. He states you had not told him about the lapsed summonses. He only learned about the lapsed summonses after filing his grievance in February 1996. Your May 15, 1996 response indicates that you discovered the lapsed summonses on June 3, 1995. However, you wrote a letter to Bagwell on June 23, 1995 without revealing the lapsed summonses problem to him. The fact that you failed to tell Bagwell of the lapsed summonses in your June 23, 1996 letter and the fact that he filed his grievance to determine the status of his claim strains the credibility of your response that you told Marc Bagwell about the potential for your malpractice prior to his grievance being filed. Your false statements in response to Marc Bagwell's grievance constitute a violation of Rule 1.1(a).

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 3rd day of January, 1997.



Ann Reed
Chair, Grievance Committee
The North Carolina State Bar