

NORTH CAROLINA
WAKE COUNTY

BEFORE THE
GRIEVANCE COMMITTEE
OF THE
NORTH CAROLINA STATE BAR
21G0876

IN THE MATTER OF)
)
DAVID D. MOORE,) REPRIMAND
ATTORNEY AT LAW)

On April 21, 2022 the Grievance Committee of the North Carolina State Bar met and considered the grievance filed against you by J. D. 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.

In May 2020, you began representing J.D. regarding a Marital Separation Agreement (“MSA”) and charged a \$3,500 flat fee. The fee agreement provides for monthly billing statements for work performed and expenses recorded during the previous month. In August 2021, J.D. requested an update on the status of the MSA. You informed J.D. that the only way to expedite the MSA would be to file suit, and you would require an additional \$7,500 fee. In September 2021, J.D. indicated that she would terminate the attorney/client relationship and requested an accounting of funds, any unused portion of her fee, and her client file. On October 1, 2021, you sent J.D. an invoice for \$11,783. On October 4, 2021, you provided the client file to J.D. upon the execution

of a “receipt and release” form, which was prepared by your paralegal. The form acknowledges receipt of the client file and termination of attorney/client relationship, but also states: “I release and indemnify the firm of the Law office of David D. Moore, P.C. from any and all claims whatsoever which may arise from his representation of me in this matter.” You did not advise J.D. in writing of the desirability of seeking, nor gave J.D. a reasonable opportunity to seek, the advice of independent legal counsel in connection with the indemnification.

By requesting an additional \$7,500 from J.D. in exchange for litigating the MSA, despite the flat fee arrangement, you attempted to charge and collect a clearly excessive fee in violation of Rule 1.5(a). By providing the “receipt and release” form for J.D. to sign you violated Rule 1.8(h)(2), which forbids an attorney from settl[ing] a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith. By requiring J.D. to indemnify you in exchange for her client file, you failed to take steps to the extent reasonably necessary to protect your client’s interests by failing to provide J.D. with papers and property to which she was entitled in violation of Rule 1.16(d). By allowing your paralegal to draft and present the “receipt and release” form to J.D. without your review, you failed to properly supervise your nonlawyer assistant in violation of Rule 5.3(c)(2).

In determining that a Reprimand was appropriate in this matter, the Committee considered the potential harm that the “receipt and release” had on your client. The Committee also considered your lack of prior discipline, your recognition of the wrongful nature of the conduct, and that repetition of misconduct is not likely.

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.

Done and ordered, this the 31st day of May, 2022.



Matthew W. Smith, Chair
Grievance Committee

MWS/lb