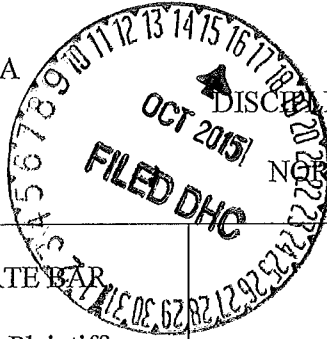


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
 DISCIPLINARY HEARING COMMISSION
 OF THE
 NORTH CAROLINA STATE BAR
 15 DHC 47

THE NORTH CAROLINA STATE BAR

Plaintiff

COMPLAINT

v.

MICHAEL J. ANDERSON, Attorney,

Defendant

Plaintiff, complaining of Defendant, alleges and says:

1. Plaintiff, the North Carolina State Bar ("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, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Michael J. Anderson ("Anderson"), was admitted to the North Carolina State Bar in 1995, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

Upon information and belief:

3. During all or part of the relevant periods referred to herein, Anderson was engaged in the practice of law in the State of North Carolina and maintained a law office in Wilson, Wilson County, North Carolina.

FIRST CLAIM FOR RELIEF

4. Paragraphs 1-3 are incorporated as if set out herein.

5. On 23 December 2014, the State Bar received a grievance from Dr. Mark G. Hooper, D.C. raising the concern that Defendant was not complying with liens held by Hooper-Thurston Elite Chiropractic for certain clients and stating that his office had not been able to contact Defendant since October 2014.

6. The State Bar contacted Defendant, provided him with the grievance from Dr. Hooper, and asked Defendant to provide some initial information.

7. By letter dated 31 December 2014, Defendant responded to the State Bar and provided the State Bar with three letters dated 31 December 2012 addressed to Hooper-Thurston Elite Chiropractic pertaining to the clients listed in Dr. Hooper's grievance.

8. One of the letters dated 31 December 2012 that Defendant provided to the State Bar stated it was regarding "My (Former) Client: Thomas Wilson" and stated "this firm no longer represents the above-referenced individual." As of 31 December 2012, however, the incident for which Mr. Wilson retained Defendant had not yet occurred.

9. On 19 February 2015, the State Bar served Defendant with a Letter of Notice in grievance file 14G1200 concerning the above matters, and with a subpoena for the production of client files and trust account records.

10. The Letter of Notice required, among other things, that Defendant respond to the issue that the letter to Hooper-Thurston Elite Chiropractic concerning client Thomas Wilson that Defendant had provided to the State Bar could not have been in existence on 31 December 2012.

11. Defendant was required to respond to the Letter of Notice within fifteen days of service; his response was due on 6 March 2015. Defendant was required to produce the subpoenaed documents by 4 March 2015.

12. Defendant did not respond to the Letter of Notice served upon him in grievance file 14G1200.

13. Defendant did not fully comply with the subpoena, producing client file materials but not the specified trust account records.

14. The client file materials Defendant produced established that the other two letters dated 31 December 2012 that Defendant had provided to the State Bar with his 31 December 2014 letter could not have been in existence on 31 December 2012.

15. The letter identified as regarding "My Client: Brenda Holden (on behalf of Betricia and Shekia, too)" stated "the above-referenced matter settled at mediation recently." As of 31 December 2012, however, Defendant had not yet filed a complaint for these clients and no mediation or settlement had occurred.

16. The letter identified as regarding "My Clients: Ricky Tant & Tiffany Kron" stated "the above-referenced matter was dismissed by the Court without recovery recently." As of 31 December 2012, however, Defendant had not yet filed a complaint for these clients and no dismissal had occurred.

17. The three letters dated 31 December 2012 that Defendant provided to the State

Bar with his 31 December 2014 letter were not in existence on 31 December 2012.

18. The three letters dated 31 December 2012 that Defendant provided to the State Bar with his 31 December 2014 letter were not sent to Hooper-Thurston Elite Chiropractic on 31 December 2012.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline as follows:

- I. Pursuant to N.C. Gen. Stat. § 84-28(b)(2), for violation of the following Rules of Professional Conduct in effect at the time of the conduct:
 - a) By failing to respond to the Letter of Notice in grievance 14G1200, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in connection with a disciplinary matter in violation of Rule 8.1(b);
 - b) By failing to fully comply with the subpoena issued to him in grievance 14G1200, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in connection with a disciplinary matter in violation of Rule 8.1(b);
 - c) By providing the State Bar with the letters dated 31 December 2012 that could not have been in existence or mailed on 31 December 2012, Defendant knowingly made a false statement of material fact in connection with a disciplinary matter in violation of Rule 8.1(a), or, by providing these letters and failing to respond to the State Bar's inquiry concerning the date discrepancy issue, failed to disclose a fact necessary to correct a misapprehension known by Defendant to have arisen in the disciplinary matter in violation of Rule 8.1(b).
- II. Pursuant to N.C. Gen. Stat. § 84-28(b)(3), as follows:
 - a) For knowing misrepresentation of any facts or circumstances surrounding any complaint, allegation, or charge of misconduct; and/or
 - b) For failure to answer the formal inquiry issued by the North Carolina State Bar in a disciplinary matter.

SECOND CLAIM FOR RELIEF

19. Paragraphs 1-3 are incorporated as if set out herein.
20. Prior to about May 2013, Defendant did not keep records of any monthly or

quarterly reconciliations of his trust accounts.

21. Despite notification by the State Bar of proper reconciliation practices, Defendant did not fully come into compliance with requisite reconciliation procedures, including as follows:

- a. In the quarterly reconciliation conducted by Defendant for the fourth quarter of 2014, Defendant included only two of the three months in his reconciliation, including October and November 2014, but not December 2014.

THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2) in that Defendant violated the Rules of Professional Conduct in effect at the time of the conduct as follows:

- a) By failing to retain records of his reconciliations, Defendant failed to retain a record of the reconciliations of the general trust account for a period of six years in violation of Rule 1.15-3(d)(3) and (g); and
- b) By failing to include all months in his quarterly reconciliation, Defendant failed to conduct a proper quarterly reconciliation of his trust account in violation of Rule 1.15-3(d)(1).

THIRD CLAIM FOR RELIEF

22. Paragraphs 1-3 are incorporated as if set out herein.

23. Defendant represented Jeffrey Bowden.

24. On behalf of Mr. Bowden, Defendant filed a complaint in Wilson County Superior Court against Dwayne Maurice Young, Coastal Plains Restaurant, and Charlotte Liberty Mutual Insurance Company, file number 14 CVS 314. First Liberty Insurance Corporation was later substituted as the proper party defendant for Charlotte Liberty Mutual Insurance Company.

25. On 14 April 2014, First Liberty filed a motion to dismiss, which was denied. First Liberty filed notice of appeal. First Liberty filed a motion with the Wilson County Superior Court for a stay pending appeal, which the Court granted.

26. The parties filed briefs with the North Carolina Court of Appeals in the fall of 2014, and argued the case before the Court of Appeals in December 2014.

27. On or about 12 February 2015, Defendant filed a motion with the Wilson County Superior Court in the Bowden case, asking that the stay pending First Liberty's appeal be lifted.

28. In his motion, Defendant made the following statements:

- a. "I was forced to admit to my client that I was ashamed of the overwhelming incompetence and ignorance, as well as asinine and unprofessional behavior, of this panel of the Court of Appeals. Indeed, I told Mr. Bowden that I felt just as I imagine I would have over a century ago arguing to said Court that slavery was a bad labor relations policy, which is particularly appropriate as this panel seems poised to attempt to usher in a whole new indentured servitude in the state of North Carolina;" (p. 2)
- b. "I encountered questions and commentary from this panel demonstrating . . . a stubborn arrogance and ignorance clearly communicating that this panel has no intention of gaining understanding, only ammunition to aid in their apparent need for justification of the torture of Jeffrey Bowden. Had I known the level of intellectual functioning and maturity of this panel in advance, I would have come prepared with a coloring book with big pretty pictures to illustrate my points;" (p. 2)
- c. "When I responded with an example to illustrate the law, she [one of the Court of Appeals panel members] literally threw a temper tantrum as my example was clearly beyond her level of comprehension and she became frustrated;" (p. 2)
- d. "Indeed, a blank stare overtook another panelists' [sic] face as I politely explained the concept of bad faith to him, in the most remedial term [sic] that I could, much like a deer stares blankly at oncoming headlights. As I felt like I was attempting to teach physics to a class of unruly third graders, I hold out little hope for a competent decision from this panel." (p. 2)

29. On 17 February 2015, the Court of Appeals issued its decision, in which it reversed the trial court's denial of First Liberty's motion to dismiss.

30. On 20 March 2015, Defendant filed a Notice of Appeal and a Petition for Discretionary Review with the Supreme Court of North Carolina.

31. On 2 April 2015, First Liberty filed a Motion to Dismiss Appeal with the Supreme Court of North Carolina.

32. On 27 April 2015, Defendant filed a "New Brief and Response to Motion to Dismiss" (hereinafter Brief/Response) with the Supreme Court of North Carolina.

33. In his Brief/Response, Defendant made the following statements:

- a. "the lack of intellectual functioning and overt partiality of this panel of the North Carolina Court of Appeals being readily apparent . . . but, acting like mentally challenged cheerleaders, knowing they wanted to motivate their team to victory, but not sure of how to accomplish the goal, this panel made it clear it was determined to rule for the defendant but didn't know how to justify such a ruling

and were simply seeking such justification.” (p. 8)

- b. “Judge . . . made it clear that she had no intention of listening to any argument advanced on behalf of the plaintiff and was assuming the historical role of the ‘house negro’ for the purposes of this matter” (p. 8)
- c. “his position had been given the same consideration as the argument that slavery was an unfair labor practice would have met with here two centuries ago.” (p. 9)
- d. “Sounding more like ‘Beaver Cleaver’ than any person has a right to, Judge . . . came to the aid of his fellow cheerleader Judge . . . making the observation (again paraphrasing somewhat): ‘Gee whiz (Wally) it’s not like they punched the guy or something.’” (p. 21)
- e. “It appears that this defense firm has as much regard of the truth and candor toward the tribunal as its client has for basic human rights. Perhaps instead of Wall Templeton on behalf of Liberty Mutual it should be “Tall Story-ton on behalf of Liberty Mutual for Those Who Can Sue Us and torture for Those Who Can’t.” (p. 4)

34. On 30 April 2015, First Liberty filed a Motion to Strike Defendant’s Brief/Response with the Supreme Court of North Carolina.

35. On 30 April 2015, Defendant filed a “Motion to Dismiss Frivolous Interlocutory Appeal and For Sanctions Pursuant to Rule 34” (hereinafter Motion to Dismiss Appeal) with the Supreme Court of North Carolina in the Bowden case.

36. In his 30 April 2015 Motion to Dismiss Appeal, Defendant made the following statements:

- a. “Obviously the Court of Appeals has taken this to mean that this Court will tolerate intentional torts committed upon the workers of this state as part of the claim handling process in Workers Compensation, as well, presumably because the governor would like to keep costs down for the State by forcing injured workers to forego claims for benefits under the Act or be tortured.” (p. 3)
- b. “It would appear that the instant panel will glad [sic] play thee [sic] blind mice, and [Judge] . . . will serve the role historically played by Monica Lewinsky for President Clinton for the current governor of North Carolina.” (p. 4)
- c. “At this point, I’m convinced that with the passing of each so-called ‘fart’ I dispense more integrity and legal competence than is possessed by all the folks on this panel combined and, if these judges are intent upon making the North Carolina Court of Appeals a literal ‘whippin’ boy’ for special interests, they are welcome to kiss my red white and blue American made ass.” (p. 5)

37. On 30 April 2015, the Supreme Court of North Carolina entered an order allowing First Liberty's Motion to Strike Defendant's 27 April 2015 Brief/Response and striking the Brief/Response. On the same date, the Court also entered an order *ex mero motu* striking Defendant's 30 April 2015 Motion to Dismiss Appeal.

38. On 26 May 2015, the State Bar served Defendant with a Letter of Notice in grievance file 15G0412 concerning the above listed statements and pleadings.

39. Defendant was required to respond to the Letter of Notice within fifteen days of service; his response was due on 10 June 2015.

40. Defendant did not respond to the Letter of Notice served upon him in grievance file 15G0412.

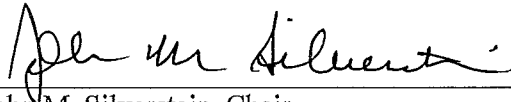
THEREFORE, Plaintiff alleges that Defendant's foregoing actions constitute grounds for discipline as follows:

- I. Pursuant to N.C. Gen. Stat. § 84-28(b)(2), for violation of the following Rules of Professional Conduct in effect at the time of the conduct:
 - a) By failing to respond to the Letter of Notice in grievance 15G0412, Defendant knowingly failed to respond to a lawful demand for information from a disciplinary authority in connection with a disciplinary matter in violation of Rule 8.1(b);
 - b) By making the statements listed above concerning judges of the North Carolina Court of Appeals, Defendant engaged in undignified or discourteous conduct that is degrading to a tribunal in violation of Rule 3.5(a)(4)(B), used means that had no substantial purpose other than to embarrass a third person in violation of Rule 4.4(a), and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d); and
 - c) By making the statement listed above concerning opposing counsel, Defendant used means that had no substantial purpose other than to embarrass a third person in violation of Rule 4.4(a) and engaged in conduct prejudicial to the administration of justice in violation of Rule 8.4(d).
- II. Pursuant to N.C. Gen. Stat. § 84-28(b)(3), as follows:
 - a) For failure to answer the formal inquiry issued by the North Carolina State Bar in a disciplinary matter.

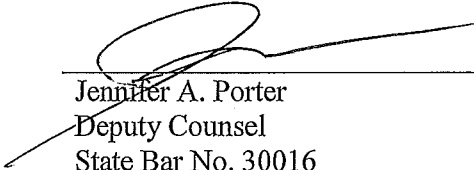
WHEREFORE, Plaintiff prays that:

- (1) Disciplinary action be taken against Defendant in accordance with N.C. Gen. Stat. § 84-28(a) and § .0114 of the Discipline and Disability Rules of the North Carolina State Bar (27 N.C. Admin. Code 1B § .0114), as the evidence on hearing may warrant;
- (2) Defendant be taxed with the administrative fees and costs permitted by law in connection with this proceeding; and
- (3) For such other and further relief as is appropriate.

This the 16th day of October, 2015.



John M. Silverstein, Chair
Grievance Committee



Jennifer A. Porter
Deputy Counsel
State Bar No. 30016
The North Carolina State Bar
P.O. Box 25908
Raleigh, NC 27611
919-828-4620

Attorney for the Plaintiff