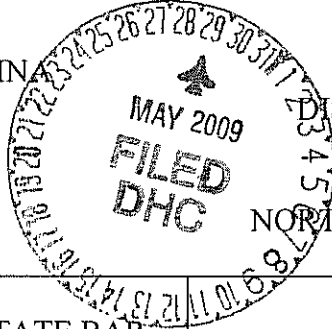


STATE OF NORTH CAROLINA  
WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING  
COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
09 DHC 11

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THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

KAREN ZAMAN, Attorney,

Defendant

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND CONSENT ORDER  
OF DISCIPLINE

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This matter was considered by a hearing committee of the Disciplinary Hearing Commission composed of Tommy W. Jarrett, Chair, and members J. Michael Booe and Michael J. Houser, pursuant to North Carolina Administrative Code, Title 27, Chapter 1, Subchapter B, § .0114(h). Jennifer A. Porter and Melissa D. Donahue represented the Plaintiff, the North Carolina State Bar. Alan M. Schneider represented the Defendant, Karen Zaman ("Zaman"). Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Zaman has freely and voluntarily stipulated to the foregoing findings of fact and consents to the conclusions of law and entry of the order of discipline. Zaman freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline. Based upon the stipulations of fact and the consent of the parties, the hearing committee hereby enters the following:

### **FINDINGS OF FACT**

1. 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 North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar promulgated thereunder.

2. Zaman was admitted to the North Carolina State Bar in 1979, 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 Revised Rules of Professional Conduct.

3. During all or part of the relevant periods referred to herein, Zaman was engaged in the practice of law in the State of North Carolina and maintained a law office in Chapel Hill, Orange County, North Carolina. Zaman had previously maintained a law office in Charlotte, Mecklenburg County, North Carolina from about 1981 – 2004.

4. Zaman was properly served with process, a hearing in this matter was set and the matter comes before the hearing committee with due notice to all parties.

5. Zaman undertook representation of Zachary Noel and filed a complaint in Superior Court, Mecklenburg County, North Carolina on his behalf. This case was titled *Zachary Noel v. Leon Dickerson, Jr., M.D.; OrthoCarolina, P.A.; Presbyterian Orthopedic Hospital, LLC; and The Presbyterian Hospital*, case number 06 CVS 17934 (hereinafter “the Noel case”).

6. A discovery conference hearing was scheduled to be held before the court in the *Noel* case for July 11, 2008.

7. Zaman was notified by the court of this hearing and the parties’ obligation to appear.

8. Zaman failed to attend the discovery conference for the *Noel* case.

9. Zaman undertook representation of Hilda Edwards and filed a complaint in Superior Court, Mecklenburg County, North Carolina on her behalf. This case was titled *Hilda Edwards as the Administratrix of the Estate of Doris Lee Murphy v. Joseph P. Ducey, M.D., The Presbyterian Hospital and Presbyterian Anesthesia Associates, P.A.*, case number 08 CVS 3728 (hereinafter “the Edwards case”).

10. A discovery conference hearing in the *Edwards* case was scheduled for July 23, 2008 at 9:30 a.m.

11. Zaman was notified by the court of this hearing and the parties’ obligation to appear.

12. Zaman failed to appear for the discovery conference hearing at 9:30 a.m. for the *Edwards* case. Her client, Ms. Edwards, appeared, as did opposing counsel.

13. When Ms. Edwards and opposing counsel were before the judge, opposing counsel stated that Zaman had sent him a Notice of Voluntary Dismissal without prejudice pertaining to all defendants in the case.

14. Zaman’s client, Ms. Edwards, had not been aware of this dismissal. She told the court that she had not consented to it and would not consent to it.

15. Opposing counsel had previously filed a Motion to Dismiss one of the defendants in the *Edwards* case, to which Zaman felt there was no defense. Zaman had intended to file a Notice of Voluntary Dismissal as to that defendant.

16. Zaman had instructed her assistant to draft a Notice of Voluntary Dismissal. Zaman’s assistant erroneously prepared a Notice of Voluntary Dismissal as to all defendants in the *Edwards* case.

17. Zaman stated her assistant had access to her signature stamp and sent the Notice of Voluntary Dismissal as to all defendants to be filed without Zaman's knowledge.

18. Zaman failed to supervise her assistant and the assistant's access to her signature stamp.

19. In later proceedings, the court found that Zaman's conduct amounted to gross neglect and set the voluntary dismissal aside.

20. Zaman was retained in March 2005 to represent Monica Messer and her minor daughter Alyssa Messer (hereinafter "Alyssa") in their personal injury claims arising from an accident that occurred on December 16, 2004.

21. Zaman failed to fully explain to Alyssa's parents, David and Monica Messer (hereinafter "the Messers"), all options for recovery of medical expenses from Alyssa's injuries from the accident. Consequently, Zaman failed to determine which option her client wished to pursue.

22. Zaman did not pursue the Messers' claim for Alyssa's medical expenses and the statute of limitations for the Messers' claim for Alyssa's medical expenses expired on December 16, 2007.

23. In about February 2008, Zaman met with the Messers. Zaman admitted to the Messers that she had not pursued their claim for Alyssa's medical expenses. Zaman told them in the event there were any medical expenses that would have been covered by available liability insurance had a lawsuit been filed, Zaman would be legally responsible for those expenses.

24. Alyssa turned 18 years old on February 25, 2008, and the statute of limitations for her claim for medical expenses began at that time. Zaman continued to represent Alyssa on her personal injury claim, including her claim for medical expenses.

25. In about April 2008, while still representing Alyssa on her personal injury claim, Zaman agreed to personally pay for Alyssa's ongoing chiropractic treatments. The chiropractic care was for injuries that arose from the accident at issue in the representation. Zaman sent a total of four months' payment to the chiropractor.

Based upon the consent of the parties and the foregoing stipulated Findings of Fact, the hearing committee enters the following:

**CONCLUSIONS OF LAW**

1. All the parties are properly before the Hearing Committee and the Committee has jurisdiction over Zaman, and the subject matter of this proceeding.
2. Zaman's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline as follows:
  - a. By failing to attend discovery conference hearings, Zaman failed to act with reasonable diligence in representing a client in violation of Rule 1.3 and engaged in conduct that was prejudicial to the administration of justice in violation of Rule 8.4(d);
  - b. By allowing her assistant to have access to a signature stamp and then not supervising use of it, Zaman failed to properly supervise her assistant in violation of Rule 5.3(b);
  - c. By failing to fully discuss with the Messers their options regarding recovery for Alyssa's medical expenses and failing to determine their wishes on that matter, Zaman failed to reasonably consult with her clients about the means by which the clients' objectives are to be accomplished in violation of Rule 1.4(a)(2) and failed to explain the matter to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation in violation of Rule 1.4(b); and
  - d. By making payments for her client, Alyssa, for ongoing medical care related to the matter for which she had been retained, Zaman provided financial assistance to a client in connection with pending or contemplated litigation in violation of Rule 1.8(e).

Based on the Findings of Fact and Conclusions of Law above, the hearing committee makes the following:

**FINDINGS AND CONCLUSIONS REGARDING DISCIPLINE**

1. Zaman's misconduct is aggravated by the following factors:
  - a. Prior disciplinary offenses, to wit: a reprimand in 2008 for unauthorized practice of law, lack of diligence, and lack of communication; an admonition issued in 2008 for settling a potential malpractice against her without complying with requirements of Rule 1.8;
  - b. Multiple offenses; and
  - c. Substantial experience in the practice of law.
2. Zaman's misconduct is mitigated by the following factors:
  - a. Absence of a dishonest or selfish motive;
  - b. Remorse;
  - c. Full and free disclosure to the hearing committee and a cooperative attitude toward the proceedings; and
  - d. Timely good faith efforts to make restitution or to rectify consequences of misconduct.
3. The mitigating factors outweigh the aggravating factors.
4. Zaman has engaged in conduct that caused potential significant harm to her clients. Her failure to attend discovery hearings caused delay in the *Edwards* case. Her failure to supervise her assistant, resulting in the filing of a Notice of Voluntary Dismissal in the *Edwards* case, resulted in action being taken without the knowledge or consent of the client and placed her client's ability to pursue her legal claim at risk.
5. Zaman's conduct has caused significant harm to the administration of justice. Zaman's failure to attend the discovery hearings in the *Noel* and *Edwards* cases wasted court time and resources. The discovery hearings could not take place during the time allotted. The judge in the *Noel* case expended additional judicial time to call her at her office to conclude the matter that should have been handled at the hearing. The judge in the *Edwards* case expended additional time, resetting the hearing for later in the day but ultimately not being able to hold the hearing due to Zaman's conduct. Furthermore, Zaman's failure to supervise her assistant and the consequent erroneous filing of the

Notice of Voluntary Dismissal in the *Edwards* case unnecessarily consumed court time to determine whether the dismissal would be enforced.

6. Zaman failed to attend discovery hearings for two clients, despite specific notice of the requirement to attend unless the matter was removed from the calendar by the caseflow manager and despite various local and state-wide rules of civil procedure that required her appearance at the hearings. Zaman's failure to be aware of and comply with applicable rules posed potential significant harm to the administration of justice and her clients.

7. Zaman was on notice from previous matters of the need to better supervise non-attorney assistants. Despite such notice, Zaman failed to do so.

8. Zaman has made adjustments in her staff and her case management to prevent recurrence of problems such as those recited in this order, but monitoring is essential to ensure the continuation and success of such efforts.

9. Based upon the foregoing facts, entry of an order of discipline with a significant suspension of Zaman's law license that is stayed only as long as Zaman complies with reasonable conditions is necessary to protect the public.

Based upon the foregoing findings of fact and conclusions of law and the findings of fact and conclusion regarding discipline, and based upon the consent of the parties, the hearing committee enters the following:

#### **ORDER OF DISCIPLINE**

1. The Defendant, Karen Zaman, is hereby suspended from the practice of law for two (2) years.

2. The two-year suspension is stayed for a period of three (3) years as long as Zaman complies, and continues to comply during the period of the stay, with the following conditions:

- a. Complete a law office management course approved by the Office of Counsel of the North Carolina State Bar at her own expense no later than ninety (90) days after this Order is served upon Zaman. Zaman shall provide written proof of successful completion of the course to the Office of Counsel within 10 days of completing the course;
- b. Arrange for a member of the North Carolina State Bar to serve as her law practice monitor. The selected monitor must be an active member of the North Carolina State Bar in good standing who practices law in North Carolina and who has been approved by the Office of Counsel of the North Carolina State Bar. The selected monitor must agree to so serve and agree to meet with Zaman at

least monthly to review Zaman's cases. The monitor will supervise all client matters and will ensure Zaman is meeting deadlines, conferring with clients and attending court dates. The monitor will submit written quarterly reports of this supervision to the Office of Counsel of the State Bar, such reports due on the following dates as they occur during the stay of this suspension: January 15, April 15, July 15, and October 15. This monitoring will occur for the duration of any stay of this suspension. Zaman will pay the cost, if any, charged by the monitor for this supervision. Zaman must have made the arrangements for this monitoring attorney and supplied the Office of Counsel of the State Bar with a letter from the monitoring attorney confirming his/her agreement to perform the duties listed above no later than ninety (90) days from service of this Order on Zaman;

- c. Meet at least once a month with her monitoring attorney, to whom she will report the status of all current client matters, cooperate with the monitor attorney and provide any information the monitor attorney deems reasonably necessary to ensure Zaman is handling all client matters in a timely fashion, meeting deadlines and attending court dates;
- d. Ensure the monitoring attorney sends a written report each quarter to the Office of Counsel of the State Bar as described above;
- e. Cooperate with the Office of Counsel and make appropriate arrangements for an alternate monitoring attorney if needed during the stay of this suspension;
- f. Receive treatment for post-traumatic stress disorder and/or any other mental health or behavioral condition that affects her ability to practice law diagnosed by a mental health professional of her choice and approved by the Office of Counsel of the State Bar during the period of any stay of this suspension. Such assessment and treatment will be at the expense of Zaman. Zaman will sign an authorization form consenting to the release of medical records and information from the mental health professional or other medical professional to the Office of Counsel to the State Bar and will not revoke that release. Zaman will arrange for treatment and send the authorization form to the Office of Counsel within sixty (60) days of service of this Order;
- g. Pay all Membership dues and Client Security Fund assessments and comply with all Continuing Legal Education requirements on a timely basis;
- h. Keep her address of record with the North Carolina State Bar current, accept all certified mail from the North Carolina State Bar, and respond to all letters of notice and requests for information

from the North Carolina State Bar by the deadlines stated in the communication;

- i. Not violate any of the Rules of Professional Conduct in effect during the period of the stay;
- j. Not violate any laws of the State of North Carolina or of the United States during the period of the stay; and
- k. Pay all costs of this proceeding as assessed by the Secretary within 30 days after service of the statement of costs on her.

3. If Zaman fails to comply with any one or more conditions stated in paragraph 2 above at any point during the period of time the suspension is stayed, the stay of the suspension of her law license may be lifted as provided in § .0114(x) of the North Carolina State Bar Discipline and Disability Rules.

4. It is the finding of this hearing committee that it is necessary for the protection of the public that Zaman practice law with the assistance of a practice monitor for the time set out in this order and in compliance with the other conditions set out above. Therefore, if Zaman chooses to not practice law while the stay of the suspension in this order is in effect, she shall apply to the Administrative Committee of the North Carolina State Bar to be moved to inactive status. Any order of the Administrative Committee of the North Carolina State Bar placing Zaman in inactive status for any reason shall toll the running of the suspension, and the period of the stay of the suspension, under this order. Upon Zaman's reinstatement to active status by the Administrative Committee, the tolling of the running of the suspension, and the stay of the suspension, under this order shall be lifted, at which time Zaman's obligations to comply with the conditions of the stay of the suspension in this order will resume.

5. If the stay of the suspension is lifted and the suspension is activated for any reason, the DHC may enter an Order providing for such conditions it deems necessary for reinstatement of Zaman's license at the end of the two-year suspension. Furthermore, Zaman will have complied with each of the following conditions precedent to reinstatement:

- a. Submitted her license and membership card to the Secretary of the North Carolina State Bar no later than 30 days from the effective date of the order activating her suspension;
- b. Complied with all provisions of 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0124 of the North Carolina State Bar Discipline and Disability Rules on a timely basis;
- c. Complied with all Continuing Legal Education requirements as if still in practice during the suspension on a timely basis;
- d. Not have violated any of the Rules of Professional Conduct;

- e. Not have violated any laws of the State of North Carolina or of the United States;
- f. Paid all costs of this proceeding as assessed by the Secretary within thirty (30) days of service of the notice of costs upon her;
- g. Show by clear, cogent, and convincing evidence she is not then suffering from any disability that would impair her ability to practice law; and
- h. Completed a law office management course approved by the Office of Counsel at her own expense within a year prior to seeking reinstatement.

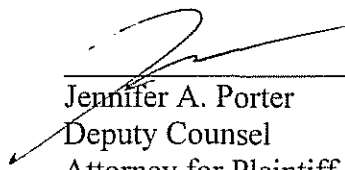
5. The Disciplinary Hearing Commission will retain jurisdiction of this matter pursuant to 27 N.C. Admin. Code Chapter 1, Subchapter B, § .0114(x) of the North Carolina State Bar Discipline and Disability Rules throughout the period of the stayed suspension.

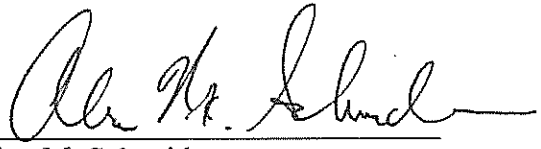
Signed by the undersigned hearing committee chair with the consent of the other hearing committee members.

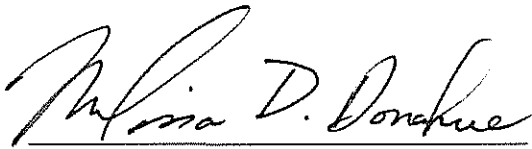
  
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 Tommy W. Jarrett  
 Chair, Disciplinary Hearing Committee

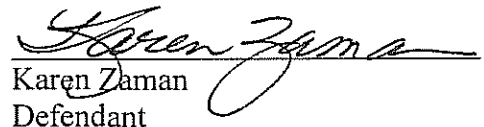
May 29, 2009

CONSENTED TO BY:

  
 \_\_\_\_\_  
 Jennifer A. Porter  
 Deputy Counsel  
 Attorney for Plaintiff

  
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 Alan M. Schneider  
 Attorney for Defendant

  
 \_\_\_\_\_  
 Melissa D. Donahue  
 Deputy Counsel  
 Attorney for Plaintiff

  
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 Karen Zaman  
 Defendant