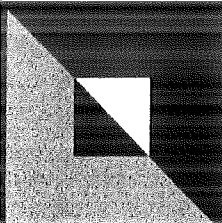


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“Everything You Need To  
Know To Avoid A State  
Bar Grievance, You  
Learned In Kindergarten”

By: David Benbow  
Benbow and Phillips, P.C.  
Statesville, NC

## MOST OF WHAT LAWYERS NEED TO KNOW TO AVOID STATE BAR GRIEVANCES, WE LEARNED IN KINDERGARTEN

Have you ever awakened from a nightmare where you had been dreaming that Bruno DeMolli was being interviewed by Action 9 News on the front steps of your law office? Have you ever had that dream? You know the one, where your secretary is frantically shredding your files as Dan Rather, microphone in hand, is knocking on your office door.

If you have had that dream or one similar, take heart. There is hope for you. This is because most of what lawyers need to know about State Bar Grievances, we've already learned in kindergarten...lessons learned by all of us when we were 5, which will help us avoid most State Bar Grievances.

Here are 6 important lessons from kindergarten for lawyers.

### 1. Answer "Here", when your name is called.

What was the first thing your kindergarten teacher did every day? She called roll. It was first because it was very important. It is also very important in practicing law because your clients are calling your name too. They need to know that you are present. They need your help, your expertise, your loyalty and your time. Be sure to respond when your clients call your name. Promptly return their phone calls, emails and letters. Remember these clients have chosen you to help them with some of life's most difficult problems. What a special gift our clients give us when they give us their trust.

The best defense against grievances is open, honest, forthright communication between you and your clients. Answer "here" when your client calls your name.

### 2. Don't take things that don't belong to you.

You learned to leave your classmates snacks alone, not to take their crayons, not to wear coats and mittens belonging to someone else.

This also applies to the practice of law. Leave your clients' money alone. No matter how desperate you are, no matter how scared you may be, no matter that you are sure that no one will ever know and no matter that you can pay it back next week...leave your clients' money alone. Period.

### 3. Be responsible for your mistakes.

When your teacher asked, "Who spilled the kool-aid all over the floor?", you may have shut your eyes and put your hands in front of your face, thinking, "If I can't see her, she can't see me". You learned that this didn't work.

It won't work when the State Bar sends you an inquiry either. If you receive an inquiry, answer it promptly. Don't hide behind "more pressing matters". Your failure to respond is a violation in and of itself.

If your answer is too hard to deal with, seek help from an attorney friend or from your State Bar Councilor or from the Lawyer Assistance Program through PALS or FRIENDS. Help (hope) is available. There are caring people who may not know you, but who are willing to get to know you and to help you. After all, isn't that why most of us became lawyers – to help others?

4. Handle your crayons with care.

In kindergarten, we learned about crayons. Some were sharp and could be used to color within the lines; some were dull and harder to work with; some were bright colors; some drab; some had strange names like "magenta". Many were different colors. If you pressed too hard on a crayon, it broke. All had to be put back into the same crayon box.

Our clients are like crayons. Be careful with them. Remember, when the legal system is through with them, most go back into the same box. Remember each client is a unique individual who has come to you for help. Respect the dignity of each and every client.

5. Prepare for open house.

In kindergarten, you learned to do your best work on projects to be displayed for open house. You were proud because your parents, grandparents, brothers and sisters were coming to visit your class. You carefully traced the outline of your hand to make the turkey feathers for the Thanksgiving drawing so that it would be the best you could do, because your mom and dad were coming to see it at open house.

As lawyers, often our work is on display. Make it your best. Prepare your work as if tonight were open house and your mom and dad were coming.

6. Share.

We learned to share in kindergarten.

It is also important for us as lawyers, to share our unique talents. Our training and experience qualifies us to make a difference in our community and in our world. Share your talents. Be a catalyst for good.

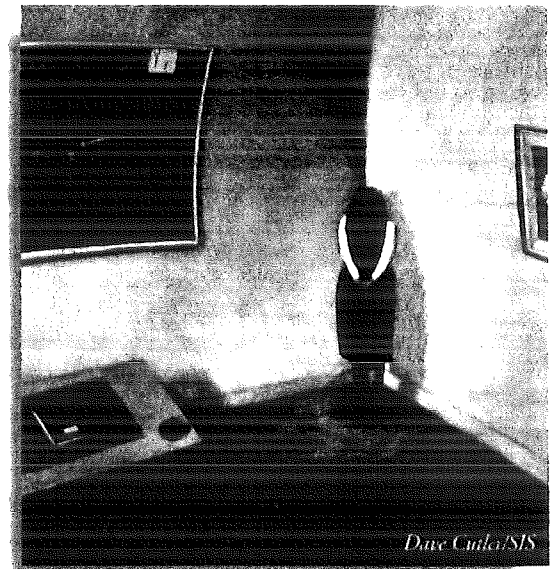
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BY C. DAVID BENBOW IV

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*Dave Cutler/SIS*

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*Statesville lawyer, David Benbow, is a State Bar Councilor who serves on the Grievance Committee.*

## A Modest Proposal

BY JAN H. SAMET

Whereas, the failure to respond to a grievance is a violation of 8.1(b) of the Revised Rules of Professional Conduct; and

Whereas, there is an unacceptable number of attorneys in North Carolina who have failed and refused either to respond to local or State Bar Grievance Committees; and

Whereas, it is in the interest of the attorneys, the State Bar, and the citizens of the State of North Carolina to have timely responses filed to grievances; and

Whereas, when a grievance is mailed to an attorney by either the local or the State Bar Grievance Committee, said attorney has 15 days from the date of the letter transmitting the grievance to respond to said grievance; and

Now, therefore, be it resolved that upon failure to respond by the 20th day from the date of the mailing of a notice of grievance, the investigator at the State Bar level or the head of the Grievance Committee on the local level shall be authorized to contact a councilor within whose judicial district the non-responding attorney practices and request assistance from said State Bar councilor;

The councilor without being given any particulars concerning the nature of the grievance, will be advised that an answer or response to a grievance is overdue and the councilor will be asked to personally contact the attorney who has failed to make timely response;

The councilor will make a reasonable effort to timely contact the attorney whose response is delinquent and discuss with the attorney the response requirement;

In said discussions, it is the hope of the State Bar Council that should the councilor become aware of any issues that would be appropriately addressed by PALS, Friends, the Lawyer Assistance Program, such reference will be timely made by the State Bar Councilor;

Once the contact has been made by the councilor with the delinquent attorney, the Local Bar Grievance or the State Bar Grievance Committee will be notified of the contact and the date upon which the contact took place;

The attorney who is delinquent in response to the Grievance Committee shall have 15 days from the date of contact by the councilor to file an appropriate response;

Failure to respond within the second 15 day period shall create a rebuttable presumption before the Grievance Committee that discipline up to and including a reprimand is appropriate. In the event that a non-responding attorney shall fail to respond in a timely manner to either the State or Local Bar Grievance Committee on a second and separate occasion there shall be a rebuttable presumption that discipline up to and including censure is appropriate.

*High Point attorney, Jan H. Samet, is a State Bar Councilor who serves on the Grievance Committee.*