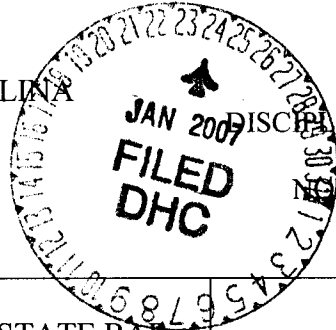


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE  
DISCIPLINARY HEARING COMMISSION  
OF THE  
NORTH CAROLINA STATE BAR  
06 DHC 35

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THE NORTH CAROLINA STATE BAR,

Plaintiff,

v.

MICHAEL B. NIFONG, Attorney,

Defendant.

AMENDED COMPLAINT

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Plaintiff, complaining of defendant, alleges and says:

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 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 B. Nifong, (hereinafter "Nifong"), was admitted to the North Carolina State Bar on August 19, 1978, 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.

Upon information and belief, plaintiff alleges:

3. During all times relevant to this complaint, Nifong actively engaged in the practice of law in the State of North Carolina as District Attorney for the Fourteenth Prosecutorial District in Durham County, North Carolina.

4. In the early morning hours of March 14, 2006, a woman reported that she had been raped by three men during a party at 610 North Buchanan Boulevard.

5. Durham Police initiated an investigation and executed a search warrant on the house at 610 North Buchanan Boulevard on March 16, 2006.

6. Police investigation also revealed that the residents of 610 Buchanan Boulevard were members of the Duke University lacrosse team, and that the other attendees at the March 13, 2006, party had also been members of the team.

7. On or about March 22, 2006, an investigator from the Durham Police Department contacted the Durham District Attorney's office for assistance in obtaining a Nontestimonial Identification Order (NTO), which would compel the suspects in the case to present themselves to authorities to be photographed and provide DNA samples.

8. Nifong learned of the case on March 22, 2006, when the NTO was granted and served on forty-six members of the Duke lacrosse team.

9. On or about March 27, 2006, Durham Police officials briefed Nifong on the case, which would often be referred to in the media as the "Duke Lacrosse rape case."

#### **Improper Pretrial Public Statements and Misrepresentations**

10. Beginning on or before March 27, 2006, Nifong made public comments and statements to the representatives of the news media about the Duke Lacrosse rape case.

11. Nifong participated in interviews with various newspapers and television stations beginning on March 27, 2006 on several different aspects of the case and investigation.

12. For example, Nifong made various statements to the news media about Duke lacrosse team members' alleged failure or refusal to cooperate with or make a statement to law enforcement authorities.

13. Nifong told a representative of the news media that lacrosse team members deny the rape accusations, that team members admitted that there was underage drinking at the party, and that otherwise team members were not cooperating with authorities.

14. Nifong made the statements referenced in paragraph 13 above to a reporter for WRAL news.

15. Nifong made the statements referenced in paragraph 13 above in March, 2006.

16. Nifong told a representative of the news media that he may also consider charging other players for not coming forward with information, stating “[m]y guess is that some of this stonewall of silence that we have seen may tend to crumble once charges start to come out,” Nifong said.

17. Nifong made the statements referenced in paragraph 16 above to a reporter for ABC 11 TV News.

18. Nifong made the statements referenced in paragraph 16 above in March, 2006.

19. Nifong stated to a representative of the news media: “[t]here are three people who went into the bathroom with the young lady, and whether the other people there knew what was going on at the time, they do now and have not come forward. I’m disappointed that no one has been enough of a man to come forward. And if they would have spoken up at the time, this may never have happened.”

20. Nifong made the statements referenced in paragraph 19 above to a reporter for the New York Times.

21. Nifong made the statements referenced in paragraph 19 above in March, 2006.

22. Nifong stated to a representative of the news media that the lacrosse team members were standing together and refusing to talk with investigators.

23. Nifong made the statement referenced in paragraph 22 above to a reporter for NBC 17 News.

24. Nifong made the statement referenced in paragraph 22 above in March, 2006.

25. Nifong stated to a representative of the news media that he might bring aiding-and-abetting charges against some of the players who were not cooperating with Nifong's investigation.

26. Nifong made the statement referenced in paragraph 25 above to a reporter for NBC 17 News.

27. Nifong made the statement referenced in paragraph 25 above in March, 2006.