**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT**
**PANEL B**

FILED
DEC 11 2009
LESLIE W. STEEN
CLERK

IN RE: R. SCOTT WADDELL, Respondent
Arkansas Bar ID#91239
CPC Docket No. 2009-086

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Kent Longley in an Affidavit dated July 17, 2009. The information related to the representation of Mr. Longley and his business by Respondent beginning in 2007, when Mr. Waddell filed a lawsuit in Benton County Circuit Court.

On August 1, 2009, Respondent was served with a formal complaint, supported by affidavit from Mr. Longley. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that Ronald Scott Waddell, an attorney practicing primarily in Jonesboro, were hired during January 2007, to handle a lawsuit on behalf of Kent Longley and his company against Jim Erwin Wrecker Service. There was no written fee agreement and no explanation of the basis or rate of fee explained by Mr. Waddell when Mr. Longley hired him.

Mr. Waddell filed a lawsuit on behalf of Marck Industries, Inc. against Jim Erwin d/b/a Jim Erwin Wrecker Service in the Benton County Circuit Court on January 9, 2007. Mr. Waddell kept Mr. Longley informed of the actions taken in the matter from January 2007 through late April 2007 or early May 2007. Beginning in May 2007, Mr. Waddell ceased communicating

with Mr. Longley or any person at Marck Industries, Inc. It was learned at a later date that a Counterclaim was properly filed against Marck and served on Mr. Waddell, who did not notify Mr. Longley nor did he file an Answer to it. Thereafter, Requests for Admission were filed and served on Mr. Waddell and he failed to respond to them and failed to advise Mr. Longley that they had been filed. As a result of the failure to respond to the requests, a Motion to Admit Requests for Admission and Brief in Support was filed on March 25, 2008.

A Motion for Default Judgment with a Motion for Summary Judgment included was filed by the defendant in the matter during March 2008. A trial was set for April 8, 2008, to litigate damages. Mr. Waddell sent notice of the trial setting but did not attend the trial nor notify the Court or his client of his absence. On April 7, 2008, the court deemed the Requests for Admission Admitted, granted default judgment on the counterclaim, and granted the Motion for Summary Judgment, thereby dismissing the original complaint. Mr. Longley did not learn of these matters until April 7, 2008, when his agent for service of process, Roger Longley, received a subpoena to testify at the April 8, 2008, hearing in order for the court to determine Counter-Plaintiff's damages. The Court did allow Mr. Longley time to obtain counsel before making a ruling on damages.

Joanne McCracken of the McCracken Law Firm filed and served a Motion to Set Aside Default Judgment, Summary Judgment and admitted Admissions on May 28, 2008, to try to help Mr. Longley undo the damage Mr. Waddell's lack of action had caused.. On November 10, 2008, the motions Ms. McCracken filed were denied and a trial on damages was set for December 1, 2008. No damages were awarded because the Defendant did not present sufficient evidence as to an exact amount.

On December 6, 2008, Ms. McCracken sent Mr. Waddell a letter setting out the concerns and what had happened in this matter when Mr. Waddell ceased taking action. Mr. Waddell was asked to pay Mr. Longley the actual costs and expenses associated with addressing the matter and issues caused by his lack of action. On January 16, 2009, Mr. Waddell sent an e-mail setting out that he had reviewed the file materials and that he would have to enter into some form of agreement over the matter. A settlement agreement was sent to Mr. Waddell on Thursday, January 19, 2009. Mr. Waddell was unable to agree to the installment amount / repayment schedule.

Josh Meister sent Mr. Waddell an e-mail on February 19, 2009, explaining that if an agreement was not reached by the end of the week, Mr. Longley wanted a lawsuit filed. Mr. Waddell responded the next day that he could only pay approximately 1/3 of the amount in the agreement.

Ms. McCracken mailed Mr. Waddell a Confidential Settlement Agreement on February 24, 2009, and requested that it be signed and returned to her no later than March 5, 2009. On March 6, 2009, Mr. Waddell sent an e-mail advising that the papers would be in the mail that afternoon. Then, a few weeks later Mr. Waddell advised that he was uncomfortable with part of the language and wanted it changed. It was language to try to prevent Mr. Waddell from bankrupting the debt owed. No information was forthcoming from Mr. Waddell after Ms. McCracken let him know that Mr. Longley would not agree to that language being deleted. Mr. Longley directed Ms. McCracken to file the lawsuit. After being served, Mr. Waddell again asked to settle the matter and continued to assert that he wanted to work together for a positive resolution. As of June 2009, he had made no payments, nor had he returned the settlement

agreement.

After service of the formal disciplinary complaint, Mr. Longley and Mr. Waddell entered into a settlement of the claims Mr. Longley had against Mr. Waddell. Restitution payments began. Mr. Waddell agreed to pay the full amount of the Mr. Longley's underlying legal fees in a period of time not to exceed 72 months. A Consent Judgment has been signed but there is an agreement not to file it unless Mr. Waddell breaches the payment agreement.

Upon consideration of the formal complaint and attached exhibit materials, the consent proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Mr. Waddell's conduct violated Rule 1.3 when he failed to respond on behalf of Mr. Longely and his company to the Counterclaim properly filed and served by the defendant, when he failed to respond on behalf of Mr. Longley and his company to the Requests for Admission filed by the opposing party's lawyer, when he failed to respond on behalf of Mr. Longley and his company to the Motion to Admit Requests for Admission filed by the opposing party and, when he failed to respond on behalf of Mr. Longley and his company to the Motion for Default Judgment with a Motion for Summary Judgment filed by the opposing party during March 2008. Rule1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

2. That Mr. Waddell's conduct violated Rule 1.4(a)(1) when he failed to inform Mr. Longley of the Counterclaim filed against his company by Jim Erwin Wrecker Service and therefore deprived him of the opportunity to have a response filed on his behalf. Rule 1.4(a)(1) requires that a lawyer promptly inform the client of any decision or circumstance with respect to

which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules.

3. That Mr. Waddell's conduct violated Rule 1.4(a)(3), when he failed to keep Mr. Longley informed about the status of the lawsuit filed on behalf of his company against Jim Erwin Wrecker Service. Rule 1.4(a)(3) requires that a lawyer keep a client reasonably informed about the status of the matter.

4. That Mr. Waddell's conduct violated Rule 1.16(d), when he elected to no longer represent Mr. Longley and / or his company in the lawsuit filed on his behalf against Jim Erwin Wrecker Service, when he failed to give any notice to Mr. Longley, when he effectively terminated his representation of Mr. Longley and / or his company when he ceased taking action in the lawsuit, and when he failed to surrender the papers to Mr. Longley to which he was entitled. Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering papers to which the client is entitled.

5. That Mr. Waddell's conduct violated Rule 8.4(d), because his failure to act on Mr. Longley's behalf and on behalf of his company or to advise him to hire other counsel to do so, has deprived him of the opportunity to have his claims heard in Court. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that R. SCOTT WADDELL, Arkansas Bar ID#91239, be, and hereby is, CAUTIONED for his conduct in this matter. Mr. Waddell is also assessed the costs of this proceeding, pursuant to Section 18.A. of the

Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), in the amount of $100. The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: Valerie Kelly
Valerie Kelly, Chair, Panel B

Date: 12/11/09

(13.M, Rev.1-1-02)