BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
DEC 29 2009
LESLIE W. STEEN
CLERK

IN RE: BOBBY K. KEETER, Respondent
Arkansas Bar ID#77076
CPC Docket No. 2009-097

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Betty Collinsworth in an Affidavit dated September 9, 2009. The information related to the representation of Ms. Collinsworth by Respondent beginning in September 2005.

On September 14, 2009, Respondent was served with a formal complaint, supported by an affidavit from Ms. Collinsworth. Respondent filed a timely response. Ms. Collinsworth submitted rebuttal. The matter proceeded to ballot vote before Panel A of the Committee pursuant to the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law.

The information before the Committee reflected that during September 2005, Betty Collinsworth hired Bobby K. Keeter, an attorney practicing primarily in Mena, Arkansas, to represent her in an injury matter. She had fallen at Wal-Mart and needed someone to represent her to pursue recovery for the damages suffered. Ms. Collinsworth had counsel before Mr. Keeter, but when those attorneys advised that they could no longer represent her, Ms. Collinsworth contacted Mr. Keeter.

After Mr. Keeter was hired, he filed a lawsuit in Polk County, Arkansas, on Ms. Collinsworth's behalf on October 16, 2006. According to Ms. Collinsworth, Mr. Keeter advised

her at one stage that Ms. Collinsworth should recover at least $300,000 for her injuries. Mr. Keeter denied ever advising Ms. Collinsworth that she could recover at least $300,000 or any other amount. He explained that he encouraged her to settle for $15,000 and when she refused, he filed the lawsuit in hope that her claim could be settled for more.

On November 2, 2006, the Answer of Wal Mart was filed. On April 11, 2007, Wal Mart's lawyer filed a Motion to Compel, and a copy was sent to Mr. Keeter. Ms. Collinsworth, Mr. Keeter's client, knew nothing about it. The Motion demonstrates that Mr. Keeter was contacted numerous times about the legal matter but failed to respond to opposing counsel. Ms. Collinsworth explained that she provided Mr. Collinsworth every piece of information he requested. On April 18, 2007, Judge Looney sent a letter to both attorneys in the civil matter and filed the Order to Compel. Mr. Keeter dismissed the case rather than address the Motion to Compel. The Order to Dismiss was sought and obtained on May 8, 2007, twenty-seven (27) days after the Motion to Compel was filed and twenty (20) days after the Order to Compel was first filed with the Clerk. Mr. Keeter said that he did inform Ms. Collinsworth of these pleadings and that he told her to obtain other counsel because of the volume of work he had at his law office. Mr. Keeter also asserts that he advised Ms. Collinsworth of the dismissal and delivered a copy to her.

As of the date of her Affidavit, Mr. Keeter has advised during any conversation that Ms. Collinsworth has had with him that the case is progressing. However, unknown to Mr. Keeter, Ms. Collinsworth visited the Mena Courthouse a few months prior to executing her Affidavit and discovered that he had filed a Motion and dismissed the matter without her knowledge or consent on May 8, 2007.

During taped conversations Ms. Collinsworth has had with Mr. Keeter since she learned of the dismissal, he has continued to state that the lawsuit is progressing and he is waiting on a court date. In one of the taped conversations, there is a reference to April 2, being "next Thursday". That is April 2, 2009, which is almost two years after Mr. Keeter dismissed her lawsuit and the matter was no longer pending. That specific date has not been on a Thursday in the last nine years except for 2009. Mr. Keeter denied that the conversations took place in 2009 and said that the must have taken place in 2007 before he obtained entry of the Order of Dismissal Without Prejudice. It appears that the matter cannot now be re-filed because of the length of time since the dismissal.

In addition to the Wal Mart claim, Mr. Keeter agreed to handle a small claim against Rich's Concrete and Construction Company in Mena. The claim involved a botched concrete job at the Collinsworth home. The concrete company sent the Collinsworths a check for $1,523.08 as settlement. Mr. Keeter wrote the concrete company on September 1, 2005, returned its check, and demanded more money. As of the date of her Affidavit, Mr. Keeter continued to tell Mrs. Collinsworth that he was working on the concrete claim. Because of the Wal Mart matter, she no longer believed him. Mr. Keeter denied that he was retained to pursue the matter any further than writing the initial letter.

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

1. That Mr. Keeter's conduct violated Rule 1.2(a), because Mr. Keeter failed to abide by Mrs. Collinsworth's objectives of representation, in that he did not pursue her claim

against Wal Mart but rather had it dismissed without notice to her, and in that he did not actively pursue the matter against Richard Kuzmiski d/b/a Rich's Concrete and Construction after returning the settlement check offered to Mr. Keeter and Mrs. Collinsworth. Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and consult with the client as to the means by which they are to be pursued.

2. That Mr. Keeter's conduct violated Rule 1.3, when he failed to re-file Mrs. Collinsworth's lawsuit against Wal Mart within the one year following the date he had it dismissed without prejudice and because his representation of Mrs. Collinsworth in seeking recovery from Richard Kuzinski d/b/a Rich's Concrete and Construction since 2005, was neither diligent nor prompt. Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

3. That Mr. Keeter's conduct violated Rule 1.4(a)(1), when he failed to inform Mrs. Collinsworth of his decision to dismiss her lawsuit without prejudice during May 2007. Mr. Keeter never explained the circumstances nor obtained her informed consent for doing so. 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.

4. That Mr. Keeter's conduct violated Rule 1.4(a)(3), when he failed to keep Mrs. Collinsworth informed about the status of her claim against Wal Mart; when he failed to keep Mrs. Collinsworth informed of the status of her claim against Richard Kuzniski d/b/a Rich's Concrete and Construction; and when he did not inform Mrs. Collinsworth when he obtained an

Order dismissing her lawsuit against Wal Mart. Rule 1.4(a)(3) requires that a lawyer keep a client reasonably informed about the status of the matter.

5. That Mr. Keeter's conduct violated Rule 8.4(c), because his act of omission of not informing Mrs. Collinsworth that he had dismissed her lawsuit without prejudice in May 2007 is an act of dishonesty and deceit on his behalf and because he has been dishonest with Mrs. Collinsworth for months by telling her that her lawsuit against Wal Mart was progressing when the truth is he dismissed the matter in May 2007. Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

6. That Mr. Keeter's conduct violated Rule 8.4(d), because his failure to re-file Mrs. Collinsworth's lawsuit against Wal Mart since May 2007, or to advise her she needed to hire other counsel to do so, has deprived her of the opportunity to have her 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 A, that BOBBY K. KEETER, Arkansas Bar ID#77076, be, and hereby is, REPRIMANDED for his conduct in this matter. Mr. Keeter is assessed the costs of this proceeding in the amount of FIFTY-DOLLARS ($50) pursuant to Section 18.A. of the Procedures. Pursuant to Section 18.of the Procedures, Panel A imposes a fine in the amount of TWO THOUSAND DOLLARS ($2000) to be paid by Mr. Keeter. The costs assessed and fine imposed herein, totaling **$2050**, 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 A

By: Steven Shults
Steven Shults, Chair, Panel A

Date: November 30, 2009