BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
JUL 16 2010
LESLIE W. STEEN
CLERK

IN RE: **RICHARD H. YOUNG**
Arkansas Bar ID #94149
CPC Docket No. 2008-086

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Peggy Prose of Russellville, Arkansas, in July 2008. The information related to the representation of Ms. Prose in 2004-2008 by Respondent Richard H. Young, an attorney practicing primarily in Russellville. During December 2008 Respondent was served with a formal complaint, supported by an affidavit from Ms. Prose and other materials.

On October 27, 2004, Peggy Prose was a passenger in a vehicle and suffered a shoulder injury when that vehicle was "rear-ended" on an entrance ramp of I-630 in Little Rock. She employed attorney Young to represent her in the matter. She has no copy of any written fee agreement with Mr. Young. She had surgery on her shoulder, now has a disability in her arm, and had medical bills of over $25,000,which were paid by her insurance company.

On October 26, 2007, Mr. Young filed suit for her in this matter, and he had a Summons issued. Young only attempted service on the at-fault driver by mail and never got her served. On May 2, 2008, an Order was filed dismissing Prose's lawsuit for failure to obtain service. She did not learn of this dismissal from Mr. Young. Thereafter, Ms. Prose went to another Russellville attorney for assistance in this matter. He and she have been unable to revive her lawsuit and

claim.

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

A. Mr. Young's conduct violated Arkansas Rule 1.1, in that he (1) failed to provide the thoroughness and preparation necessary to see that his attempt to obtain mail service of summons and complaint on the opposing party in his suit for Ms. Prose was properly calendered in his office so that he could timely determine the status of this crucial step and be timely alerted to the need for follow-up if it was not successful; (2) he failed to provide the thoroughness and preparation necessary to see that his attempt to obtain service of summons and complaint on the opposing party in his suit for Ms. Prose was not attempted by a process server, so that he could timely determine the status of this crucial step and be timely alerted to the need for follow-up if it was not successful; and (3) without good cause, he waited until the day before the three year statute of limitation for this type of action ran out to file his Complaint for Ms. Prose, thereby depriving her and him of any safety margin of time to obtain service of process on the defendant if a problem with service arose. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Mr. Young's conduct violated Arkansas Rule 1.3 in that he (1) failed to obtain service of summons on the defendant, under the circumstances being conduct not involving reasonable diligence and promptness in representing this client; (2) failed to timely obtain an extension of time to obtain service in the case he filed for Ms. Prose, under the circumstances being conduct

not involving reasonable diligence and promptness in representing this client; and (3) without good cause, waited until the day before the three year statute of limitation for this type of action ran out to file his Complaint for Ms. Prose, thereby depriving her and him of any safety margin of time to obtain service of process on the defendant if a problem with service arose, under the circumstances being conduct not involving reasonable diligence and promptness in representing this client. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Young's conduct violated Arkansas Rule 1.4(a)(3) in that he (1) failed to inform his client, Ms. Prose, that he had failed to timely obtain service of summons on the defendant in her suit, and (2) he failed to inform his client, Ms. Prose, that her case had been dismissed in early May 2008, based on his failure to obtain service on the defendant in the Prose suit. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

D. Mr. Young's conduct violated Arkansas Rule 1.4(b) in that if he had advised Ms. Prose before she retained his services in late 2004 that circumstances and situations not involving her might cause him to delay filing her lawsuit until October 2007, the client would have had an opportunity to consider employing other counsel to represent the client in the matter and possibly receive the relief the client sought. Arkansas Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

E. Mr. Young's conduct violated Arkansas Rule 1.5(c) in that he failed to put his contingent fee arrangement with Ms. Prose regarding her accident in October 2004 in writing.

Arkansas Rule 1.5(c) requires that a fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party.

F. Mr. Young's conduct violated Arkansas Rule 8.4(d) in that by failing to obtain service on the defendant in the suit he filed for Ms. Prose, and suffering a dismissal for that reason, his actions caused her to lose any chance to achieve a recovery from the defendant on her claim. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 the Arkansas law license of **RICHARD H. YOUNG**, Arkansas Bar ID# 94149, be, and hereby is, **SUSPENDED for TWENTY-FOUR (24) MONTHS** for his conduct in this matter, and he is ordered to pay $50.00 in case costs. The sanction was based on, in part, and enhanced on a consideration of Respondent's disciplinary history. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The $50.00 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 A

By: _____
T. Benton Smith, Jr., Chair, Panel A

Date: June 2, 2010