

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL C

IN RE: JEFFREY L. SINGLTON, Respondent
Arkansas Bar ID#98175
CPC Docket No. 2011-083

FILED

DEC 10 2012

FINDINGS AND ORDER

**LESLIE W. STEEN
CLERK**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Mr. Singleton in a Self-Report, Honorable Mackie Pierce and James Keever. The information related to the representation of Dr. Phillip Kravetz by Respondent in 2010 and 2011.

On October 17, 2011, Respondent was served with a formal complaint, supported by his self report and pleadings and Orders from the matter of *Mullins v. Kravetz*, Pulaski County Circuit Court, No. CV2010-1108. A response was filed. The Respondent, through counsel, and the Executive Director negotiated a discipline proposal, which was submitted to this Panel.

Mr. Singleton's reported conduct occurred during his representation of Phillip Robert Kravetz, M.D. in the medical malpractice action brought against him by Donna Sue Mullins in Pulaski County Circuit Court. The Complaint was filed on March 5, 2010. The matter proceeded through various discovery until such time as counsel for the Plaintiff discovered contact between the Defendant Kravetz and the Department Chair of the University of Michigan where the Plaintiff's expert is employed.

When the contact was first thought to be connected with Dr. Kravetz, Mr. Keever, Plaintiff's counsel, filed discovery seeking to find out whether the communication had been authored by the Defendant. Mr. Singleton, on behalf of his client, filed a Motion to Quash and

for a Protective Order with regard to the discovery seeking to confirm that Dr. Kravetz had authored the communication. On behalf of Ms. Mullins, Mr. Keever filed a Response setting out the reason for seeking the author of the communication.

Before the Court had opportunity to rule on the Motion, Mr. Singleton filed Dr. Kravetz' responses to the Requests for Admission relating to the communication. After Dr. Kravetz admitted to authoring the e-mail, Mr. Keever filed a Motion for Sanctions and for Protective Order. On behalf of Dr. Kravetz, Mr. Singleton filed a detailed eight page Response. There is no mention in the Response that Mr. Singleton was the person who suggested Dr. Kravetz send the communication. In the response, Mr. Singleton offers that "the timing could have been better" and "his word-choice more selective" while addressing Dr. Kravetz' conduct. Mr. Singleton goes on to set out in the Response that "there's no proof that Dr. Kravetz intended for his communications to affect this lawsuit or Dr. Graziano's testimony in any way".

On April 6, 2011, Judge Pierce conducted a hearing on the Motions filed by Mr. Keever. In presenting his Motion, Mr. Keever explained that the first e-mail was sent to the Public Relations Department of the University of Michigan Health Systems and was sent approximately one month after Mr. Keever had disclosed Dr. Graziano as the expert witness to Mr. Singleton.

When addressing the e-mails in the hearing before Judge Pierce, Mr. Singleton began by explaining to the Court that his client was not present but he (Singleton) was ready and willing to speak for his client and conveyed regret over the "ill-timed, ill-conceived, ill-worded e-mails". In the hearing, Mr. Singleton averred that his client was not present because Dr. Kravetz had started a practice in another State and that was the only reason he was not present. Dr. Kravetz, through counsel, at a later date let the Court know it was Mr. Singleton who advised him that he

did not need to be present at the hearing.

There is no mention during the hearing of Mr. Singleton's role in the e-mails being sent. Mr. Singleton went on to offer to Judge Pierce that he was going to speak to there being no ill-will, no malice and no intent to punish. Mr. Singleton went into great detail in addressing the e-mails and why his client's sending them was not sanctionable. He obviously spent a great deal of time preparing for the hearing before Judge Pierce and in preparing to defend his client. Even Judge Pierce commented on Mr. Singleton's "very thorough, very well prepared, very well stated" presentation on behalf of Dr. Kravetz.

Judge Pierce was quite upset over the e-mails and the content of each. As Judge Pierce was explaining how upset he was with Dr. Kravetz, he told Mr. Singleton that he was not fussing at him because he had "nothing whatsoever to do with this". Mr. Singleton did nothing to address or correct this mistaken belief by Judge Pierce.

Judge Pierce signed the Temporary Restraining Order on April 7, 2011, and it was filed with the Clerk on April 8, 2011.

A little over a month later, on May 13, 2011, the Office of Professional Conduct received Mr. Singleton's self-report. This self-report included the e-mail which led Dr. Kravetz to send the three objectionable e-mails. The e-mail Mr. Singleton sent his client states the following: "Can you give some thought to backdoor ways that we may be able to put pressure on Dr. Graziano - through the U of M - to decide he doesn't want to testify in this case? I'd like to discuss your thoughts." In the self-report, Mr. Singleton also explains his belief that his client had the right to engage in the communications that he did.

On May 13, 2011, prior to a May 16, 2011, hearing, members of the Mitchell Williams

Law Firm sent correspondence to Judge Pierce advising of their knowledge of Mr. Singleton's conduct. Three days after the self-report, on May 16, 2011, another hearing was held before Judge Pierce. The hearing was held at the request of Rick Beard, a Senior Member of the Firm which represented Dr. Kravetz, after he learned of Mr. Singleton's involvement in Dr. Kravetz' conduct. Another firm partner, Allan Gates, filed a Motion to Withdraw from representation of Dr. Kravetz after learning of Mr. Singleton's conduct. It was revealed then that Mr. Singleton had also sent communication to the claims representative for Dr. Kravetz' insurance company with the following information "Regardless, I'm going to visit with Dr. Kravetz asap to explore the possibility of some untraceable form of backdoor political pressure he can put on Dr. Graziano to make him decide this case is not for him."

At the hearing on May 16, 2011, Mr. Singleton was given the opportunity to address the Court. He again stated that when he appeared before Judge Pierce in April it did not cross his mind that he had sent the e-mail to his client, Dr. Kravetz, which started the ball rolling with regard to the communications made by Dr. Kravetz.

At the conclusion of the hearing, Judge Pierce said to Mr. Singleton "To say it's disappointing is the understatement of the year" and "you know, Mr. Singleton, this is right on up there with poor judgment at the top of the list". Judge Pierce was troubled by even having to hold the hearing.

On June 29, 2011, Judge Pierce issued a letter opinion with regard to the sanctions imposed as a result of the complained about conduct. The first full paragraph of Judge Pierce's letter opinion sets out his feelings over the entire matter. "This whole episode has been an unpleasant, distasteful waste of time and resources for all involved. Mr. Singleton's actions have

tarnished his reputation and that of his law firm. This was not zealous representation by Mr. Singleton. This was not about being a hard ball litigator. This was win at any and all costs, unethical, improper conduct on the part of Mr. Singleton.” Judge Pierce imposed a penalty of \$3,000 against Mr. Singleton for his conduct. In addition, Mr. Singleton was held jointly liable with the Mitchell Williams Law Firm and Dr. Kravetz for the Plaintiff’s Attorney’s fees for his time spent in preparation for the April 6 and May 16 hearings with regard to sanctions. The Order reflecting the letter opinion was filed of record on July 26, 2011. Mr. Singleton is no longer with the Mitchell Williams Law Firm, having resigned his position at the firm.

In reviewing and evaluating the consent to discipline proposal in this matter, the Committee was presented with information that although Mr. Singleton sent the e-mail to his client which precipitated the e-mails of his client, Mr. Singleton was not aware of those e-mails at the time sent. As Mr. Singleton offered although he sent the e-mail to Dr. Kravetz which led to the e-mails sent to the University, he was not aware of the e-mails at the time sent. Mr. Singleton explained that he fully appreciates that his e-mail to Dr. Kravetz put the train in motion and just because he could not stop it from rolling down the tracks, it does not excuse his conduct. Mr. Singleton has no prior disciplinary history and has apologized for what he phrased as the biggest lapse in judgment that has made to this point in his life. Further, Mr. Singleton was sanctioned in a public Order by the Circuit Court for the conduct and has had to pay monetary sanctions. Professionally Mr. Singleton has suffered significant adverse financial ramifications.

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

1. That Mr. Singleton's conduct violated Rule 4.4, when Mr. Singleton, using his client, Dr. Kravetz, engaged in conduct with regard to e-mails sent because of his suggestion to use "backdoor ways" to cause Dr. Graziano to decide he didn't want to testify in the case, engaged in conduct which was for the purpose of embarrassing or burdening Dr. Graziano. There was no legitimate, ethical purpose for the e-mails or for the suggestion to engage in conduct in an effort to find "backdoor ways" to put pressure on Plaintiff's named expert. Rule 4.4(a) requires that in representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay or burden a third person.

2. That Mr. Singleton's conduct violated Rule 8.4(a), because Mr. Singleton used his client, Dr. Kravetz, to engage in communication with the intended result that the Plaintiff's expert witness decide that he did not want to testify in pending litigation against Dr. Kravetz. Rule 8.4(a) requires that a lawyer not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.

3. That Mr. Singleton's conduct violated Rule 8.4(d), because Mr. Singleton's conduct in suggesting his client think of "backdoor ways" to put pressure on Plaintiff's expert to not want to testify caused the need for additional hearings in Judge Pierce's court that would not have been necessary otherwise. Rule 8.4(d) requires that a lawyer not engage in conduct 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 C, that JEFFREY L. SINGLETON, Arkansas Bar ID# 98175, be, and hereby is, REPRIMANDED for his conduct in this matter. In addition, pursuant to Section 18.A of the Arkansas Supreme Court Procedures Regulating

Professional Conduct of Attorneys at Law, Mr. Singleton is assessed the costs of this proceeding 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 C

By: 
Kathleen Bell, Chair, Panel C

Date: 5 DEC 12