

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

IN RE: **LISA DIANE DAVIS**, Respondent
Arkansas Bar ID # 2001072
CPC Docket No. 2013-022

BALLOT VOTE FINDINGS & ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Kacey Johnson in April 2013. The information related to the representation of Johnson in late 2012 by Respondent Lisa Diane Davis, an attorney practicing primarily in Piggott, Clay County, Arkansas. On May 7, 2013, Respondent Davis was personally served by a deputy sheriff with the formal Complaint, supported by an affidavit from Johnson. Respondent Davis failed to file a response to the Complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing. This file was considered and voted upon at the Panel B meeting on June 21, 2013.

The summarized factual basis for this Complaint provided by Kacey Johnson is that Johnson employed Davis on December 5, 2012, for representation in defending a divorce action brought against Johnson in Randolph County. Davis was paid her full fee of \$3,500 at that time. Davis filed an Answer and Counter-Claim. Davis failed to appear at a temporary hearing in Newport on December 17, 2012, which resulted in an Order by which Ms. Johnson lost temporary custody of her four children and the marital home. Johnson could not make

contact with Davis thereafter. Ms. Johnson had to employ new counsel in January 2013 at an additional cost of \$2,000.

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

A. The conduct of Lisa Diane Davis violated Rule 1.3 in that without notice to her client, Ms. Davis failed to appear at a temporary hearing on December 17, 2012, resulting in her client Kacey Johnson being without legal representation. A Temporary Order issued during that hearing placing custody of the parties' children and possession of the marital residence with Mr. Johnson, and Ms. Johnson was deprived of overnight visitation with her children until she could find other housing. Davis's failure to appear at a substantive proceeding in her client's case, without notice to the client, is conduct by Davis showing a lack of the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. 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. The conduct of Lisa Diane Davis violated Rule 1.4(b) in that if Davis had advised Kacey Johnson before December 17, 2012, that circumstances and situations not involving Johnson might cause Davis to not be able to fulfill her obligations to the client, including appearing at the temporary hearing that date, the client would have had an opportunity to consider employing other counsel to represent the client in the divorce case, possibly receive the relief the client sought or avoid an adverse outcome, and not have to pay two legal fees.

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.

C. The conduct of Lisa Diane Davis violated Rule 1.16(d) in that upon being terminated from representing Kacey Johnson in the divorce case on January 14, 2013, by notification of entry of another attorney in the case for Ms. Johnson, Ms. Davis has failed to refund to Ms. Johnson any unearned portion of the \$3,500 fee paid to Ms. Davis on December 5, 2012. Arkansas Rule 1.16(d) requires 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, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

D. The conduct of Lisa Diane Davis violated Rule 8.1(b) in that by letter of January 17, 2013, the Office of Professional Conduct (OPC) wrote Ms. Davis asking for information about the complaint received from Kacey Johnson, the letter has not been returned to OPC as undelivered, and no response has been received from Ms. Davis. Arkansas Rule 8.1(b) provides that a lawyer in connection with a disciplinary matter, shall not: (b) knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

E. The conduct of Lisa Diane Davis violated Rule 8.4(c) in that Davis requested and was paid her full fee of \$3,500.00, shown by her contract as entitling her client Kacey

Johnson to at least twenty (20) hours of legal services and detailed billings, yet Davis abandoned Johnson as a client within less than one month and has not provided any billings, or accounted for the \$3,500.00, or refunded any unearned fee, conduct by Davis involving dishonesty, fraud, deceit or misrepresentation. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

F. The conduct of Lisa Diane Davis violated Rule 8.4(d) in that Davis abandoned her client Kacey Johnson in January 2013, becoming unavailable to Johnson, and requiring Johnson to employ new counsel in her divorce case, conduct by Davis that is prejudicial to the administration of justice. 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 B, that **DISBARMENT PROCEEDINGS** shall be initiated against the Arkansas law license of **LISA DIANE DAVIS**, Arkansas Bar ID# 2001072, for her “serious” conduct in this matter. In assessing this sanction, Respondent’s prior disciplinary record was a factor, as well as her failure to file any response. Since Davis is currently the Respondent in a pending disbarment proceeding, Case No. D-13-428, initiated by this Committee, the charges contained herein shall be added to that proceeding by amended petition for disbarment. Davis is also currently under an **ORDER OF INTERIM SUSPENSION** in No. D-13-428.

ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL
CONDUCT - PANEL B

By: /s/ Henry Hodges, Chair, Panel B

Date: June 27, 2013

Original filed in the Arkansas Supreme Court on
November 21, 2013