

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: HEATHER PATRICE HOGROBROOKS

ARKANSAS BAR ID #92029

CPC Docket No. 98-107

FINDINGS AND ORDER

The formal charges of misconduct arose from the Complaint of Kenneth Hunt. Heather Patrice Hogrobrooks, Attorney at Law, West Memphis, Arkansas, was employed to represent Mr. Hunt in a civil rights case in the United States District Court for the Eastern District of Arkansas. Ms. Hogrobrooks filed an Entry of Appearance with the Court on December 4, 1995. Ms. Hogrobrooks was one of many attorneys who represented Mr. Hunt during the course of this litigation, which was originally filed in 1990. Between December 1995 and May 1996, Mr. Hunt repeatedly called Ms. Hogrobrooks's office to provide her with the names of potential witnesses he believed should be deposed. Mr. Hunt was unable to get an answer at her office. On February 1, 1996, the Court issued a Scheduling Order setting trial for the week of November 12, 1996, and setting September 17, 1996, as the date for discovery to be completed. Further, the Order set October 1, 1996, as the date by which all motions were to be filed. In the same Order, the Court set forth that no continuance would be granted based upon a party not having time to depose a witness, expert or otherwise. From February 1, 1996, through October 21, 1996, nothing was filed by Ms. Hogrobrooks with the Court regarding Mr. Hunt's case. As Mr. Hunt was unable to speak with Ms. Hogrobrooks during that period of time, he prepared a memorandum to her dated May 14, 1996. Ms. Hogrobrooks responded to the memorandum by letter dated May 17,

1996, wherein she stated that while the cause of action was Mr. Hunt's, the decision on how to proceed was hers. No depositions were ever taken of any of the people whose names Mr. Hunt provided to Ms. Hogrobrooks. On October 21, 1996, Ms. Hogrobrooks filed a Motion for Continuance because she still needed to conduct some basic discovery and needed to propound some requests for admission to the defendant. Two days later, the Motion for Continuance was denied. On November 4, 1996, Ms. Hogrobrooks filed a pleading entitled "Plaintiff's Untimely Demand for Jury Trial pursuant to Rule 39(b)." The request for a jury trial was denied because it offered no legitimate excuse for its untimeliness and because a trial by jury at that late date would prejudice the defendants. The trial was conducted November 13, 1996, through November 19, 1996. Following presentation of the evidence, the Judge took the matter under advisement. After consideration, Mr. Hunt's case was dismissed with prejudice.

Ms Hogrobrooks signed for the formal complaint on December 17, 1998. Ms. Hogrobrooks failed to respond to the allegations of the complaint but, after the time permitted for response, returned the entire complaint that was sent to her along with a transmittal letter which, among other things, stated that she felt no obligation to respond. Her failure to respond timely to the complaint constitutes admission of the factual allegations contained in the complaint pursuant to section 5I (4), Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (Procedures), as revised January 15, 1998.

Upon consideration of the formal complaint herein, the Committee on Professional Conduct finds:

1. That Ms. Hogrobrooks's conduct violated Model Rule 1.1, Arkansas Model Rules of Professional Conduct, when she filed a Motion for continuance on October 21, 1996, after the Court's deadline of October 1, 1996, based upon the need to conduct basic discovery; when she failed to conduct discovery in Mr. Hunt's case; and, when she filed a Motion for Jury Trial on October 30, 1996. Model Rule 1.1 requires, in pertinent part, that a lawyer shall provide competent representation to a client, including thoroughness and preparation reasonably necessary for the representation.
2. That Ms. Hogrobrooks's conduct violated Model Rule 1.2(a), Arkansas Model Rules of Professional Conduct, when she failed to conduct depositions of witnesses despite Mr. Hunt's request, and when she failed to request a jury trial until October 1996 despite Mr. Hunt's request of her to do so in November 1995. Model Rule 1.2(a) requires, in pertinent part, that a lawyer shall abide by a client's decisions concerning the objectives of representation, and shall consult with the client as to the means by which they are to be pursued .
3. That Ms. Hogrobrooks's conduct violated Model Rule 1.3, Arkansas Model Rules of Professional Conduct, when she failed to conduct discovery on behalf of Mr. Hunt from November 1995 through October 1996, and when she failed to request a jury trial for eleven (11) months after being informed that Mr. Hunt desired a jury trial. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.
4. That Ms. Hogrobrooks's conduct violated Model Rule 3.4(c), Arkansas Model Rules of Professional conduct, when she filed a Motion for continuance on October 21,

1996, based upon a need to conduct discovery despite the Court's scheduling order which required all motions to be filed by October 1, 1996; and, when she filed a Motion for Jury Trial on October 30, 1996, despite the Court's scheduling order which required all motions to be filed by October 1, 1996. Model Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that HEATHER PATRICE HOGROBROOKS, Arkansas Bar ID #92029, be, and hereby is, SUSPENDED for her conduct in this matter. Ms. Hogrobrooks's suspension shall be for a period of one (1) year and shall become effective as of the date of the filing of the Order .

ARKANSAS SUPREME COURT COMMITTEE

ON PROPESSIONAL CONDUCT

By: \_\_\_\_\_

Carlton Bailey

Chairman

Date: \_\_\_\_\_

