

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

IN RE: Daniel J. Kroha, Respondent

Arkansas Bar ID#75073

CPC Docket No. 97-047

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Mary Helen Ayers. The information related to the representation of Mary Helen Ayers by Respondent during 1993 through 1996. Following a request for a public *de novo* hearing, the Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel revealed that during 1993, Ms. Ayers was involved in an automobile accident. Ms. Ayers hired Daniel J. Kroha, who was then practicing in North Little Rock, Arkansas, to represent her in all claims arising out of the accident. Ms. Ayers reported that communication was satisfactory between she and Mr. Kroha until 1996. At this time, she became unable to reach Mr. Kroha. She left several messages which were not returned.

Since she could not reach Mr. Kroha, she contacted the Pulaski County Circuit Clerk's office. At that time she learned that Mr. Kroha had filed a lawsuit on her behalf on April 4, 1996. The Docket Sheet reflected that Mr. Kroha received an extension of time to perfect service of the defendant on July 22, 1996. Ms. Ayers knew nothing of these things as she was receiving no communication from Mr. Kroha. On August 3, 1996, Ms. Ayers sent a letter to Mr. Kroha by certified mail. The letter was signed for on August 8, 1996, but no response was forthcoming. Because she received no response, Ms. Ayers sent a second letter to Mr. Kroha on September 17, 1996. A representative of Mr. Kroha signed for the letter, not him. In the letter, Ms. Ayers requested that Mr. Kroha send all of her information to another attorney with whom she had discussed her claims. Mr. Kroha did not contact her nor did he contact the attorney named in the letter.

A second Motion for Extension of Time to serve the defendant was filed on October 1, 1996. The Order granting the Motion was also filed on October 1, 1996. Ms. Ayers sent a third letter to Mr. Kroha. This letter went unclaimed. On November 25, 1996, Mr. Kroha filed an Amended Complaint but took no further action on Ms. Ayers' behalf.

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

That Mr. Kroha's conduct violated Model Rule 1.3 when he failed to represent Ms. Ayers in her personal injury matter in a prompt and diligent manner and when he failed to properly serve the defendant in Ms. Ayers' lawsuit within the time allowed by law. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

That Mr. Kroha's conduct violated Model Rule 1.4(a) when he failed to keep Ms. Ayers informed of the status of her personal injury cause of action and when he failed to respond to her many requests for information related to her claims. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

That Mr. Kroha's conduct violated Model Rule 1.16(d) when he failed to return Ms. Ayers' file contents to her or to counsel of her choosing when his representation of her was terminated and when he failed to seek to be relieved as counsel of record in her pending legal matter. Model Rule 1.16(d) requires that upon termination of representation, a lawyer take the steps to the extent reasonably practicable to protect the client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel and surrendering papers and property to which the client is entitled.

That Mr. Kroha's conduct violated Model Rule 8.4(d) because his failure to timely act on Ms. Ayers' claims caused her matters to be barred from being able to be pursued. Model 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 B, that Daniel J. Kroha, Arkansas Bar ID# 75073, be, and hereby is, REPRIMANDED for his conduct in this matter. In addition, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Kroha is ordered to pay costs in the amount of \$50. Further, Mr. Kroha is ordered to pay a fine in the amount of \$250 pursuant to Section 18.B. of the Procedures. The fine and 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 with 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 B

By: _____

John L. Rush, Chair, Panel B

Date: _____

