

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

IN RE: Rick Sellars, Respondent

Arkansas Bar ID#77122

CPC Docket No. 2003-038

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 James C. Katke on August 27, 2002. The information related to the representation of Mr. Katke by Respondent, Rick Sellars, an attorney practicing primarily in Little Rock, beginning in December 1997.

On March 28, 2003, Respondent was served with a formal complaint, supported by affidavit(s) from Mr. Katke. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information presented to the Panel revealed that on December 12, 1997, Mr. Katke hired Mr. Sellars to represent him in a breach of contract case against his former employer, Splash Restaurant and Mr. Ramin S. Davari. The fee agreed upon was that Mr. Katke would pay Mr. Sellars \$300 as a retainer and also pay the costs of filing the lawsuit and having the defendants served. On December 23, 1997, Mr. Sellars sent the defendant, Ramin S. Davari, a demand letter. There was no satisfaction received as a result of the demand letter. As such, Mr. Sellars filed suit on Mr. Katke's behalf.

The lawsuit was filed on March 10, 1998. The defendants' Answer was filed on May 4, 1998. Discovery was conducted by both sides. At some point thereafter, Mr. Katke reported that Mr. Sellars quit contacting him. Mr. Katke contacted Mr. Sellars periodically and was given excuses as to why nothing was occurring with the lawsuit. On April 24, 2001, the lawsuit was dismissed for lack of prosecution. Mr. Katke was not aware of the dismissal at the time of dismissal nor did Mr. Sellars advise him of the dismissal near the time of its entry.

Mr. Sellars explained that during the early part of 2001, he telephoned the case coordinator in the court where Mr. Katke's lawsuit was pending and requested that the matter be set for trial. He provided Mr. Katke with this information on several occasions. Mr. Sellars also provided a copy of correspondence which demonstrated that he wrote the presiding court in June 2001 requesting the matter be set for trial. Mr. Sellars admitted that the first notice he had that the lawsuit was dismissed was when he received the formal disciplinary complaint from the Office of Professional Conduct. In mitigation, Mr. Sellars offered that subsequent to the dismissal of the lawsuit, also in 2001, Mr. Davari, the main defendant, filed a Chapter 7 bankruptcy thereby preventing the re-filing of any complaint against him by Mr. Katke.

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. Sellars' conduct violated Model Rule 1.3 because he failed to keep himself aware of the status of the lawsuit filed on behalf of Mr. Katke and therefore was unaware that the lack of action in the proceeding had led the Court to dismiss the complaint pursuant to Rule 41 of the Arkansas Rules of Civil Procedure for lack of prosecution. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

That Mr. Sellars' conduct violated Model Rule 8.4(d) because his failure to keep himself informed of the status of Mr. Katke's lawsuit and his failure to take Court action for a lengthy period of time led to the dismissal without prejudice of Mr. Katke's claims on April 23, 2001. 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 RICK SELLARS, Arkansas Bar ID# 77122, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Sellars is ordered to pay costs in the amount of \$50 in this matter. In addition, Mr. Sellars is ordered to pay a fine in the amount of \$500 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: _____

