

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

**IN RE: MORRIS W. THOMPSON
ARKANSAS BAR ID No. 80145
CPC DOCKET NO. 2005-067**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Leon Gooden on Morris W. Thompson. The information related to the representation of Gamble Construction Company in the case of Gamble Construction Company v. Leon Gooden d/b/a Gooden Monument Company, Craighead County Circuit Court Case No. CV2003-173(H).

This matter was presented to Panel A of the Committee on Professional Conduct for ballot vote. Mr. Thompson was provided a copy of the decision of Panel A and notified of the opportunity to request a de novo hearing. Mr. Thompson requested a de novo hearing and the matter was scheduled for June 16, 2006, before Panel B of the Committee on Professional Conduct. The Office of Professional Conduct was represented by Michael E. Harmon, Senior Staff Attorney. Mr. Thompson was represented by Jeff Rosenzweig, Attorney at Law. Testifying as witnesses before Panel A for the Office of Professional Conduct were Leon Gooden, Complainant; Frank Snellgrove; and Bill Stanley. Mr. Snellgrove and Mr. Stanley testified during an evidentiary deposition held prior to the de novo hearing. Testifying on behalf of Respondent Morris Thompson was Morris Thompson.

Leon Gooden testified before Panel B that he had entered into a contract with Gamble Construction Company ("Gamble") for the construction of a fourteen foot by twenty-four foot office building at 213 N. Allis in Jonesboro, Arkansas. Mr. Gooden stated that the building was not completed as set forth in the contract with Gamble and that he refused to pay the balance. On March 7, 2003, Gamble filed a money judgment suit against Mr. Gooden in Craighead County Circuit Court. The attorney of record for Gamble was Morris W. Thompson, Attorney at Law, Little Rock, Arkansas.

Mr. Thompson filed a lis pendens notice with the Craighead County Circuit Court Clerk on May 30, 2003. The lis pendens listed eleven parcels of property owned by Mr. Gooden, including the one parcel of property at 213 N. Allis Street where the construction was done. According to Mr. Thompson's testimony, Mr. Gooden did not have an attorney of record at the time the lis pendens was filed and, therefore, he did not provide a copy of the notice to anyone, including Mr. Gooden.

During the summer of 2003, Mr. Gooden negotiated a sale of property of one of the parcels listed in the lis pendens but not the 213 N. Allis property. The sale was for the purpose of paying the balance of a loan with Union Planters Bank. The lis pendens, however, prevented the sale of property as Mr. Gooden was unable to provide clear title. As a result of the inability to sale property not related to the contract dispute between Gamble and Mr. Gooden, Union Planters Bank initiated foreclosure on the property Mr. Gooden was trying to sell.

Mr. Gooden went to Frank Snellgrove, a friend who is also a lawyer licensed in the State of Arkansas, to talk about his financial problems in December 2003. According to Mr. Gooden, Mr. Snellgrove told him to go to the courthouse and get copies of certain documents. Mr. Gooden stated that he went to the courthouse and returned to Mr. Snellgrove's office. Mr. Snellgrove reviewed the documents and discovered that a lis pendens had been filed in the case. Mr. Snellgrove then called Mr. Thompson on the telephone. According to the testimony of both Mr. Gooden and Mr. Thompson, the conversation between Mr. Snellgrove and Mr. Thompson was rather heated. Mr. Snellgrove testified that he told Mr. Thompson that he could not file a lis pendens against every parcel of property owned by Mr. Gooden and that he should remove the lis pendens. According to Mr. Thompson, Mr. Gooden was represented by Bill Stanley, Attorney at Law, Jonesboro, Arkansas, and that Mr. Snellgrove had not entered an appearance in the case. Mr. Thompson stated that as Mr. Snellgrove and Mr. Stanley were not in the same law firm and Mr. Snellgrove had not entered an appearance, he did not want to talk about the case. Following the telephone conversation, Mr. Snellgrove wrote a letter to Mr. Thompson asking that the lis pendens be removed from Mr. Gooden's properties. Mr. Snellgrove testified that he never received a response from Mr. Thompson.

Mr. Gooden testified that he went to Bill Stanley's office in January, 2004, to talk about the lis pendens. According to Mr. Stanley, he made several attempts to telephone Mr. Thompson but was not sure if he ever spoke with him. As a result he sent a letter to Mr. Thompson on January 16, 2004, asking Mr. Thompson to release the lis pendens filed against Mr. Gooden's properties. Mr. Stanley offered a reasonable period of time for Mr. Thompson to act. Mr. Stanley stated that he never received a response from Mr. Thompson.

On February 11, 2004, Mr. Stanley filed a Second Amended Counterclaim and Cross Claim wherein a cross-claim was filed against Mr. Thompson directly. Unbeknownst to Mr. Stanley, Mr. Thompson previously filed on February 11, 2004, a release of the lis pendens on nine of the eleven properties listed in the May 30, 2003, filing.

Mr. Thompson testified that he had experienced difficulty prior to filing suit discussing the legal matter with Mr. Gooden as it related to his client, Gamble Construction, did not have a good address for Mr. Gooden, and that Mr. Gooden avoided service of process. Mr. Thompson stated that he had discussed with Christopher Mercer, Attorney at Law, Little Rock, Arkansas, about whether he could file a lis pendens against all properties owned by a party to a lawsuit involving a breach of a construction contract. Mr. Thompson was told that he could and on May 30, 2003, Mr. Thompson filed the lis pendens notice on all properties owned by Mr. Gooden.

Mr. Thompson stated that he did have a conversation with Mr. Snellgrove on December 16, 2003, about the lis pendens filed against Mr. Gooden's properties. Mr. Thompson testified that he did not do anything regarding the lis pendens notice after the telephone call or after receipt of a letter from Mr. Snellgrove. Upon receipt of a letter from Mr. Stanley in January, 2004, Mr. Thompson stated that he then researched the matter and found out that Mr. Stanley's position had merit. As a result, Mr. Thompson prepared on February 10, 2004, a release of lis pendens to nine of the eleven properties listed on the May 30, 2003, filing and mailed it to the Craighead County Circuit Clerk. The release of lis pendens was filed with the Craighead County Circuit Clerk on February 11, 2004.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, the testimony presented, 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:

1. That MORRIS W. THOMPSON violated Model Rule 3.1 when he filed a Notice of Lis Pendens with the Craighead County Circuit Court Clerk in connection with the case of Gamble v. Gooden, Craighead County Circuit Court Case No. 2003-173(H), when ten of the eleven properties listed on the lis pendens had no

connection to the basis of the lawsuit. Model Rule 3.1 requires, in pertinent part, that a lawyer not assert an issue therein, unless there is a basis for doing so which is not frivolous. Panel B found that this rule was violated by a 6-1 vote with Panel Member Bob Trammell casting the dissenting vote.

2. That MORRIS W. THOMPSON violated Model Rule 4.4 when he filed a Notice of Lis Pendens with the Craighead County Circuit Court Clerk in connection with the case of Gamble v. Gooden, Craighead County Circuit Court Case No. 2003-173(H), when ten of the eleven properties listed on the lis pendens had no connection to the basis of the lawsuit and there was no substantial purpose other than to embarrass, delay, or burden Leon Gooden. Model Rule 4.4 requires, in pertinent part, 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. Panel B found that this rule was violated by a unanimous vote.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that MORRIS W. THOMPSON, Arkansas Bar ID# 80145, be, and hereby is, REPRIMANDED and fined the sum of Four Thousand Dollars (\$4,000) for his conduct in this matter and assessed costs, pursuant to Rule 18.A of the Procedures, in the amount of Three Hundred Seventy-Eight Dollars (\$378.00). The decision on the amount of the fine was by a 5-2 vote with Panel Members Michael Cogbill and Sylvia Orton voting for a fine in the amount of \$5,000.00 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 B

By: _____
Harry Truman Moore, Chairman

Date: _____