

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

IN RE: KENNETH G. FUCHS, Respondent

Arkansas Bar ID# 81063

CPC Docket No. 2002-005

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Susan Summers on December 6, 2001. The information related to pleadings filed in Faulkner County by Respondent.

On February 21, 2002, Respondent was served with a formal complaint, supported by an affidavit from Susan Summers.

On July 25, 2001, Ms. Summers received a letter from Mr. Fuchs enclosing an Order to Terminate Child Support which was entered July 25, 2001. This letter was Ms. Summers first notice of any proceeding to terminate the child support she was receiving. Ms. Summers had to hire an attorney to get the Order to Terminate set aside. On August 7, 2001, Ms. Summers filed a Motion to Set Aside the Order, and the motion explained the fact that Ms. Summers was never served with any motion to terminate the child support and Mr. Fuchs had presented no proof of service to the court. On August 14, 2001, Judge Michael Maggio entered an order setting aside the order he had previously entered terminating the child support.

Mr. Fuchs' responded to the allegations in the complaint by stating in his response that he filed his motion to terminate child support on July 20, 2001, and that he was scheduled to be out of his office most of the following week handling personal business. He further stated that he had gotten into the habit of doing skeletal court orders whenever he filed a petition to make it easier for his secretary to immediately complete a final order after a hearing and get the order out for signatures, filing and to the opposing party. He stated that he had a young intern working for him that summer and she did all of the filings on July 20, 2001, and dropped off orders that needed signatures and that she inadvertently dropped off a skeletal court order in this matter to Judge Maggio. Mr. Fuchs further stated that Judge Maggio was not in the office that day but signed the skeletal order five days later.

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

- That Mr. Fuchs' conduct violated Model Rule 3.3(a)(1) when he filed a motion to

terminate child support on July 20, 2001, in the 4<sup>th</sup> Division Circuit Court of Faulkner County and on July 25, 2001, when he presented an Order to Terminate Child Support to Judge Maggio and asserted that all paper work was in order, when in fact no service had been perfected. Model Rule 3.3(a)(1) provides, in pertinent part, that a lawyer shall not make a false statement of material fact or law to a tribunal.

- That Mr. Fuchs' conduct violated Model Rule 8.4(c) when he filed a motion to

terminate child support on July 20, 2001, in the 4<sup>th</sup> Division Circuit Court of Faulkner County and on July 25, 2001, when he presented an Order to Terminate Child Support to Judge Maggio and asserted that all paper work was in order, when in fact no service had been perfected. Model Rule 8.4(c) provides that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

- That Mr. Fuchs' conduct violated Model Rule 8.4(d) when he filed a motion to

terminate child support on July 20, 2001, in the 4<sup>th</sup> Division Circuit Court of Faulkner County and on July 25, 2001, when he presented an Order to Terminate Child Support to Judge Maggio and asserted that all paper work was in order, when in fact no service had been perfected. Mr. Fuchs' conduct further violated Model Rule 8.4(d) when he caused Ms. Summers to have to hire an attorney to deal with the pleadings he had filed and the order he had entered without any notice to Ms. Summers. Model Rule 8.4(d) provides that a lawyer shall 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 A, that Kenneth G. Fuchs, Arkansas Bar ID# 81063, be, and hereby is, CAUTIONED and ordered to pay \$500 RESTITUTION to Ms. Summers for his conduct in this matter.

The restitution 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 A

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

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