

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

IN RE: **JOHN C. BARTTELT**
Arkansas Bar ID # 87011
CPC Docket No. 2006-148

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney John C. Barttelt of Jonesboro, Craighead County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by orders of the Arkansas Court of Appeals in No. CA-2006-474, *Lydia Palasota v. Chandler Interiors et al.*, an appeal from the Arkansas Workers' Compensation Commission.

Mr. Barttelt represented Lydia Palasota through the claim process at the Commission. The Administrative Law Judge ruled in favor of Ms. Palasota's claim and awarded her a total 13% permanent impairment rating, based on the testimony of her treating MD, Dr. Rosenzweig. On appeal, the Full Commission, in a 2-1 vote, modified her rating to the 4% for the cervical spine only that was offered by Dr. Schlesinger, based on his IME neurological exam. The docket sheet in her case, No. CA-2006-474, reveals the appellate record was lodged by Mr. Barttelt on May 1, 2006. Thereafter he sought and obtained three (3) extensions of time to file her brief, the last due date being September 1, 2006. He failed to file a brief. On September 28, 2006, appellee's counsel filed a Motion to Dismiss. Mr. Barttelt filed no response. By Mandate issued October 11, 2006, the Court of Appeals granted the Motion and dismissed his client's appeal.

Mr. Barttelt responded that he had advised his client that the Commission decision against her was supported by substantial evidence and further appeal to the Arkansas Court of

Appeals was without substantial merit, based on his almost twenty years practice in the field. Mr. Barttlet claimed Ms. Palasota requested that he file a Notice of Appeal so she might consider this further, including the possibility of retaining new counsel. He filed the Notice of Appeal.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Barttelt's conduct violated Rule 1.1 in that after obtaining three extensions of time to file his client's required brief, he failed to file a brief, showing a lack of thoroughness and preparation reasonably necessary for the representation. After the opposing party filed a Motion to Dismiss his client's appeal, based on Mr. Barttelt's failure to file her required brief, he failed to file any response to the Motion to Dismiss and it was granted, showing a lack of thoroughness and preparation reasonably necessary for the representation. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Mr. Barttelt's conduct violated Rule 1.3 in that he failed to act with reasonable diligence and promptness in representing Ms. Palasota when he failed to file a brief for her after he obtained three extensions of time to file her brief. Arkansas Rule 1.3 requires that a lawyer

shall act with reasonable diligence and promptness in representing a client.

C. Mr. Barttelt's conduct violated Rule 8.4(d) in that his failure to file any appellate brief for his client, Ms. Palasota, caused her appeal to be dismissed, depriving her of any ability or opportunity to have the adverse decision in her workers compensation claim reviewed on appeal. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice;

WHEREFORE, in accordance with the consent to discipline presented by M and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **JOHN C. BARTTELT**, Arkansas Bar No. 87011, be, and hereby is, **CAUTIONED** for his conduct in this matter. The \$50.00 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 _____
Henry Hodges, Chairperson, Panel B

Date _____