

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

IN RE: **MICHAEL JOE HAMBY**
Arkansas Bar ID # 89067
CPC Docket No. 2006-169

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Michael Joe Hamby of Greenwood, Sebastian County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by orders in the Arkansas Court of Appeals Case No. CA06-758, *Debra Hill v. Area Agency on Aging & Risk Management Resources* on November 15, 2006.

Mr. Hamby filed an appeal from an adverse Workers Compensation Commission decision for his client Debra Hill, as No. CA06-758, on July 10, 2006. His brief was due on August 21, 2006. On August 17, 2006, he obtained a first, clerk's "seven day" extension, making his brief due August 28, 2006. He did not actually check out the record from the Clerk's office until August 17, 2006. On August 28, 2006, he filed a Motion for Extension of Time, and obtained a second extension to September 11, 2006. On September 11, 2006, he mailed for filing another Motion for Extension of Time, which was received and file-marked September 12, 2006. This Motion was apparently untimely filed. The Clerk's file contains a handwritten note which indicates his last Motion for Extension of Time was filed out of time, and that the Clerk's office spoke with Mr. Hamby's staff on September 13, 2006, and was told a motion to file a belated brief would be filed. There is nothing in the Clerk's file to show such a motion was filed. On October 25, 2006, the Appellees filed a Motion to Dismiss Appeal, to which Mr. Hamby failed to

file any response. On November 15, 2006, the Court issued its Mandate, granting the Motion to Dismiss, ending his client's 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 A of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Hamby's conduct violated Rule 1.1 in that he failed to file a required brief for his client, causing her appeal to be dismissed. He failed to file a response to Appellee's Motion to Dismiss, allowing his client's appeal to be dismissed without any objection for her to the Motion. 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. Hamby's conduct violated Rule 1.3 in that even after obtaining two extensions of time within which to file his client's abstract and brief in this appeal, he failed to file these items, causing her appeal to be dismissed. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Hamby's conduct violated Rule 8.4(d) in that his failure to file any brief or to file a response to the Appellee's Motion to Dismiss, caused his client's civil appeal to be dismissed and her to lose any chance of having the merits of her case reviewed on appeal, conduct that is

prejudicial to the administration of justice. 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 Mr. Hamby and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **MICHAEL JOE HAMBY**, Arkansas Bar No. 89067, be, and hereby is, **CAUTIONED** for his conduct in this matter, and assessed Committee costs of \$50.00. 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 A

By _____
Jerry D. Pinson, Chairperson, Panel A

Date _____