

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

IN RE: MARK J. FREEMAN, Respondent
Arkansas Bar ID#90217
CPC Docket No. 2006-060

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information obtained by the Office of Professional Conduct from the Orders of the Arkansas Court of Appeals in the matter of Richard Watson v. Cargill, Inc., CA05-00543. The information related to the representation of Mr. Watson by Respondent in the appeal to the Court of Appeals.

During June 2006, Respondent was served with a formal complaint, supported by the Orders of the Arkansas Court of Appeals. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on May 18, 2005, Richard Watson, filed a pro se appeal of the decision of the Worker's Compensation Commission delivered February 18, 2005. Mr. Watson's appeal was due to be filed no later than September 23, 2005. No appeal was filed by that date so Honorable Leslie W. Steen, Clerk of the Court, wrote Mr. Watson about the matter. On November 23, 2005, Mark J. Freeman, an attorney practicing primarily in Fayetteville, Arkansas, filed an Entry of Appearance on behalf of Mr. Watson. There was no further action taken by Mr. Freeman at that time. On December 13, 2005, Appellee filed a Motion to Dismiss Appeal. On December 22, 2005, Mr. Freeman filed Appellant's Motion for Belated Brief with the Clerk of the Court. On January 11, 2006, the Arkansas Court of Appeals sent notice that the Motion to Dismiss was denied and that Motion to File Belated Brief was granted. The brief was due by February 10, 2006. According to the Supreme Court Clerk's Docket sheet, Mr. Freeman tendered a brief on February 10, 2006, but it was rejected. There was no reference to the abstract and/or addendum in the statement of the case or argument. Mr. Freeman was notified that a Motion for Time to correct was required. He did not file such a Motion at the time the brief was returned to him. On March 6, 2006, Mr. Freeman checked out the record on appeal but filed no other pleading. On May 4, 2006, the Appellee filed another Motion to Dismiss. No response was filed. On May 17, 2006, the Arkansas Court of Appeals delivered an Order granting the appellee's Motion to Dismiss the Appeal. After the dismissal by the Court of Appeals, Mr. Freeman filed a Motion for Reconsideration of Order of Dismissal, Motion to Reopen Case and Motion for Extension of Time to Make Corrections. The Motions were denied by the Court on July 26, 2006.

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

1. That Mr. Freeman's conduct violated Rule 1.3 when he failed to file a corrected brief in the appeal he was to pursue after his entry of appearance in November 2005 on behalf of Richard Watson with the Arkansas Court of Appeals thereby causing the same to be dismissed; when after having the brief he tendered returned to him, he failed to file a Motion seeking time to file a corrected brief; and, when he failed to file a response to the Motion to Dismiss filed on behalf of the Appellee in the appeal involving Richard Watson. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Freeman's conduct violated Rule 8.4(d) because his failure to file a corrected brief for his client resulted in the Appellee's Motion to Dismiss being granted and his client being denied an opportunity to appellate review of the decision of the Worker's Compensation Commission. 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 Mark J. Freeman, Arkansas Bar ID# 90217 and hereby is, CAUTIONED for his conduct in this matter. In addition, Mr. Freeman is assessed the costs of this proceeding in the amount of \$100 pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. 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, Chair, Panel B

Date: _____