

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: David L. Clark, Respondent
 Arkansas Bar ID# 95093
 CPC Docket No. 2003-135

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Debbie Briscoe on July 29, 2003. The information related to the representation of Ms. Briscoe by Attorney David L. Clark beginning January 25, 2000.

On September 30, 2003, Mr. Clark was served with a formal complaint, supported by an affidavit from Ms. Golden. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

Ms. Briscoe joined Legal Club of America on September 21, 1999. She immediately contacted them upon joining the club about filing an action against her former employer, Bill's Dollar Store, for money she alleged was owed to her. She eventually was assigned to Mr. Clark, an attorney practicing primarily in Amity. Mr. Clark accepted her case and informed Ms. Briscoe on several occasions that he would file a complaint for her against Bill's Dollar Store. Around April 21, 2000, Ms. Briscoe received a copy of a letter from Mr. Clark that he indicated he sent to Bill's Dollar Store. After not hearing anymore from Mr. Clark, Ms. Briscoe sent her former employer a letter and enclosed a copy of the letter Mr. Clark sent to them. On August 16, 2000, Anne Sanders, attorney for Bill's Dollar Store, sent Mr. Clark a letter explaining that her client had never received Mr. Clark's letter until they received a copy from Ms. Briscoe. Mr. Clark did not respond to the August 16th letter from Ms. Sanders. For several months thereafter, Ms. Briscoe called Mr. Clark's office regarding her case but he was always too busy to speak with her and stated that he would call her back however, he never did. At one point, Mr. Clark told Ms. Briscoe that Bill's Dollar Store had filed bankruptcy and that he needed

information on that filing. Ms. Briscoe wrote Mr. Clark on June 4, 2001, and explained that she was concerned about the statute of limitations expiring on her case. She wrote him again August 16, 2001, to provide information on an IRA she had with her former employer and she once again inquired about the statute of limitations. Ms. Briscoe sent Mr. Clark another letter on August 27, 2001, with information on her former employer's bankruptcy. She sent him another letter on February 5, 2002, requesting a status update regarding her case. Mr. Clark ceased all communication with Ms. Briscoe at some point in 2001, and he never filed the complaint for her. Mr. Clark has also failed to return Ms. Briscoe's documents to her.

Upon consideration of the formal complaint and attached exhibit materials, 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:

1. That Mr. Clark's conduct violated Model Rule 1.3 when he accepted representation of Ms. Briscoe but failed to file any pleadings on her behalf or take any other actions to complete her case against her former employer. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Clark's conduct violated Model Rule 1.4(a) when he failed to return Ms. Briscoe's phone calls or respond to her letters regarding her case and the statute of limitations. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
3. That Mr. Clark's conduct violated Model Rule 1.4(b) when he failed to respond to Ms. Briscoe's numerous inquiries about the status of her case and the statute of limitations and when he failed to explain to Ms. Briscoe that he was either unable or unwilling to represent her in her legal matter, thereby depriving her of the opportunity to seek other counsel. Model Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

4. That Mr. Clark's conduct violated Model Rule 1.16(d) when he ceased communicating with Ms. Briscoe without concluding her case or without withdrawing from her case or advising her of the decision to no longer represent her. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advanced payment of fee that has not been earned.
5. That Mr. Clark's conduct violated Model Rule 8.4(a) when he (a) agreed to represent Ms. Briscoe yet failed to file any pleadings or take any other actions to complete her case against her former employer, and (b) when he failed to respond to Ms. Briscoe's communications and ceased communicating with her without concluding her case or without withdrawing from her case. Model Rule 8.4(a) requires that a lawyer not violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.
6. That Mr. Clark's conduct violated Model Rule 8.4(d) when he failed to take any actions to complete Ms. Briscoe's case and when he failed to keep her reasonably informed about her case or conclude or withdraw from her case. Model 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 A, that DAVID L. CLARK, Arkansas Bar ID# 95093, be, and hereby is, REPRIMANDED; fined the sum of FIVE HUNDRED DOLLARS (\$500) and assessed costs in the amount of FIFTY DOLLARS (\$50) for his conduct in this matter. For his failure to respond to the formal complaint, DAVID L. CLARK, Arkansas Bar ID # 95093, is, pursuant to Section 9.C(1) and (3), SUSPENDED from the practice of law for a period of SIX (6) MONTHS and fined the sum of SEVEN HUNDRED AND FIFTY DOLLARS (\$750). The suspension shall become effective on the date this Findings

and Order is filed of record with the Clerk of the Arkansas Supreme Court. The fines and costs assessed herein shall be paid in the form of a money order or cashier's check made payable to the "Clerk, Arkansas Supreme Court" and 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: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____