

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: K. DANIEL HASH, Respondent
 Arkansas Bar ID#2000009
 CPC Docket No. 2003-193

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Jackie “Sonny” Goff in an Affidavit dated December 9, 2003. The information related to the representation of Mr. Goff and his wife, Bonnie, by Respondent in 2002.

On June 17, 2004, Respondent was served with a formal complaint, supported by affidavit from Jackie “Sonny” Goff. Respondent filed a timely response following two (2) extensions of time in which to do so. Following receipt of the response, the matter proceeded to ballot vote before Panel B of the Committee on Professional Conduct pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002).

The information before the Committee reflected that during March 2002, Mr. Goff and his wife hired K. Daniel Hash, an attorney formerly practicing law primarily in Bentonville, to represent them in a lawsuit brought against them and to file a counterclaim for injury to one of their horses. Mr. Hash had been recommended to them by a friend because he was just beginning to build his practice and would have the time available to devote to their legal matter.

The first visit with Mr. Hash was when he met with Mr. and Mrs. Goff at her place of employment. Mr. Hash met with the Goffs and then agreed to represent them if they would come to his office to sign a contract which they did on March 11, 2002. Mr. Hash requested \$150 as a retainer fee. Mr. and Mrs. Goff paid him as requested.

Prior to signing the contract of employment, the veterinarian, Gary France filed a claim in Municipal Court of Benton County for the balance which the Goffs owed him. The amount alleged to be owed was \$234

plus costs as of February 8, 2002. On April 19, 2002, Mr. Hash filed a motion to transfer to circuit court. In addition, he filed a counterclaim for medical injury, fraud and breach of bailment.

After the matter was transferred to Circuit Court, the opposing counsel served Mr. Hash with Interrogatories for the Goffs to answer. The Goffs supplied Mr. Hash with responses promptly after he provided copies of the Interrogatories to them.

In November 2002, a deposition of Mr. Goff and of Gary France took place. Mr. Hash did not provide Mr. Goff with a copy of his deposition. Following the depositions, there was little activity in the legal matter. In addition, communication with Mr. Hash was sporadic at best.

During February 2003, Mrs. Goff was able to speak with Mr. Hash who advised her that opposing counsel had requested the name of an expert witness. Mr. Hash was advised that we would contact other veterinarian clinics to see if we could locate an expert witness. It was during this conversation also that Mr. Hash revealed that the opposing counsel had served Requests for Admission to him but that he had not yet responded to them.

Because of the difficulty in contacting Mr. Hash, Mrs. Goff wrote him on March 21, 2003, and set out the concerns she and her husband had. To their knowledge, Mr. Hash never took any of the actions requested in the correspondence.

On May 16, 2003, Mr. Bassett filed a Motion for Summary Judgment and Brief in Support of the same. Mr. and Mrs. Goff did not receive a copy of the Motion until early June 2003. The Motion reflected that Mr. Hash had not responded to the Requests for Admission so they were deemed admitted. Mr. Hash admitted that he did not respond to the Request for Admission because he did not have an expert witness.

Finally during May 2003, because of the increasing difficulty in contacting Mr. Hash, Mrs. Goff began to maintain a telephone log of the attempts to contact Mr. Hash. On the occasions when messages were left, no return call was made. On many occasions, Mr. Hash's cell phone was disconnected. Mr. Hash did assure Mr. and Mrs. Goff that he would file a response to the Motion for Summary Judgment but he did not do so. In July 2003, Mr. and Mrs. Goff learned that their counterclaim had been dismissed. They received the information

from Judge Clinger's office staff, not from Mr. Hash. Although they wrote Mr. Hash and requested an explanation of this, he has not responded to them at any time. None of the documents provided to him were returned to Mr. and Mrs. Goff either.

Mr. Hash explained in his response to the formal disciplinary complaint that the Goffs' case was the first one to come through his door. He offered that some of the mistakes he made were due to his inexperience in the legal profession. Mr. Hash asserted his regret for those mistakes. Mr. Hash also acknowledged that he took on too many cases because he tried to take on the cases of Johnny E. Gross and because he had health and financial problems. Mr. Hash has left the private practice of law at this time and is employed by the State in a more structured environment.

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

1. That Mr. Hash's conduct violated Model Rule 1.3 when he did not respond to the Requests for Admission in the manner allowed by law and allowed the same to be deemed admitted; when he did not promptly and diligently seek an expert witness to testify on behalf of his clients, the Goffs, in the legal matter he was hired to pursue on their behalf; and, when he failed to file any response to the Motion for Summary Judgment filed by the opposing counsel in the legal matter wherein he was representing the Goffs. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Hash's conduct violated Model Rule 1.4(a) because he did not keep Mr. and Mrs. Goff informed of the status of his actions, if any, which were being undertaken in the civil litigation they hired him to pursue on their behalf; because although Mr. and Mrs. Goff contacted him on numerous occasions to request information about the counterclaim against Dr. France, he failed to promptly comply with their requests for information; and, because he provided Mr. and Mrs. Goff false information about the services being provided by him in the claim being pursued

against Dr. France. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

3. That Mr. Hash's conduct violated Model Rule 1.4(b) when he failed to explain to Mr. and Mrs. Goff that he had not responded to the Requests for Admission filed in the matter being pursued against Dr. France and when he failed to explain to Mr. and Mrs. Goff that he was not going to respond to the Motion for Summary Judgment filed by Dr. France's attorney, thereby denying them the right to seek other counsel to do so. 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. Hash's conduct violated Model Rule 1.16(d) because since his representation of Mr. and Mrs. Goff was terminated, he failed to provide them with the documentation they provided him with regard to their claims against Dr. France. Model Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a 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 advance payment of fee that has not been earned.
5. That Mr. Hash's conduct violated Model Rule 8.4(c) when he misrepresented the true facts to Mr. and Mrs. Goff when he advised them that he was responding to the Motion for Summary Judgment filed on behalf of opposing counsel in the legal matter being pursued against Dr. France; when he was not truthful with the Goffs when he failed to advise them that the Judge had entered an Order against them based on the Motion for Summary Judgment filed by Dr. France's attorney; and, when he misrepresented the facts and circumstances of the claims against Dr. France when he omitted telling the Goffs that he had failed to respond to the Request for Admission filed on Dr. France's behalf. Model Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

6. That Mr. Hash's conduct violated Model Rule 8.4(d) because his failure to take action on behalf of the Goffs with regard to the Request for Admission and the Motion for Summary Judgment led to a Judgment against them without the opportunity for them to present their matter in court. 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 B, that K. DANIEL HASH, Arkansas Bar ID# 2000009, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures, Mr. Hash is assessed the costs of this proceeding in the amount of \$50. In addition, pursuant to Section 18.C. of the Procedures, Mr. Hash is ordered to pay restitution to the Goffs in the amount of \$150. The costs and 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 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: _____

J. Michael Cogbill, Chair, Panel B

Date: _____