

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED

MAY 16 2008

**LESLIE W. STEEN
CLERK**

IN RE: ERNEST L. COCHRAN, Respondent
Arkansas Bar ID#2006009
CPC Docket No. 2008-005

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Glenda Amerison in an Affidavit dated February 8, 2008. The information related to the representation of Ms. Amerison by Respondent beginning in 2003.

On or around February 21, 2008, Respondent was served with a formal complaint, supported by affidavit from Glenda Amerison Hollers. A response was filed. The Respondent, through counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that during the first half of calendar year 2003, Glenda Amerison hired Ernest L. Cochran, an attorney practicing primarily in Texarkana, Texas, to represent her in claims for injuries from an auto accident in which she was rear-ended and ultimately had to have neck surgery. Mr. Cochran agreed to represent her with his fee agreement being contingent in nature and for a percentage of any recovery Ms. Amerison might receive from settlement or trial.

After hiring Mr. Cochran, Ms. Amerison was in contact with his office in person and by telephone numerous times before he filed a Complaint on her behalf in Sevier County Circuit

Court on January 11, 2006. In July 2006, Mr. Cochran told Ms. Amerison that the defendant's lawyer had tricked him and the matter had been dismissed. Mr. Cochran told Ms. Amerison that he had hired a lawyer to research and see if she could file suit in Texas. Mr. Cochran told Ms. Amerison to call back in two (2) weeks and he would know whether anything could be done. After that Ms. Amerison called Mr. Cochran and wrote him letters but he did not respond.

Ms. Amerison then consulted other counsel about the matter and about Mr. Cochran's representation of her. At that time, Ms. Amerison learned what had happened in the lawsuit Mr. Cochran had filed. On March 6, 2006, an Answer was filed in the matter. The Answer contained the allegation that the Defendant had not been served with process and that the Complaint should be dismissed. Mr. Cochran did not respond to the allegations in the Answer. According to Mr. Cochran, he thought service had been successful when the Answer was filed. He also explained that it was after the 120 days had run that the Motion to Dismiss was filed and therefore it was too late to obtain an extension for perfecting service.

On May 23, 2006, a Motion to Dismiss was filed. Mr. Cochran did not respond to the Motion. Mr. Cochran explained that there was no arguable legal basis for opposing the motion, hence the reason no response was filed. Then on June 27, 2006, Mr. Cochran filed a Motion for Nonsuit. Mr. Cochran offered that he did so in an attempt to invoke the one-year saving statute. Judge Capeheart granted the Motion to Dismiss. Based upon the Order, Ms. Amerison lost the opportunity to sue Mr. Westerfield for the injuries and pain and suffering he caused in the accident.

Ms. Amerison hired another attorney to assist her after she learned what Mr. Cochran had failed to do with regard to the civil litigation. This attorney was able to secure a monetary

settlement on her behalf with Mr. Cochran.

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

1. That Mr. Cochran's conduct violated Rule 1.1 when he was not thorough enough in his representation of Ms. Amerison (Hollers) to be certain that he obtained sufficient service of process upon the Defendant, Cody Shane Westerfield, within the time allowed by law for doing so. Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Ms. Cochran's conduct violated Rule 1.3 when he failed to properly serve Cody Shane Westerfield with the lawsuit he filed on Ms. Amerison-Holler's behalf in Sevier County Circuit Court. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that ERNEST L. COCHRAN, Arkansas Bar ID# 2006009, be, and hereby is, CAUTIONED for his conduct in this matter. Pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Cochran is assessed the costs of this proceeding in the amount of \$100. 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 A

By: Steven Shults
Steven Shults, Chair, Panel A

Date: 5-16-08

(13.M, Rev.1-1-02)