

# ***2008 Annual Report***

***Arkansas Supreme Court***

***Committee on Professional Conduct  
&  
Office of Professional Conduct***

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## ***I. Introduction***

**Authority:** Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (“Procedures”), the Committee on Professional Conduct (“Committee”) is granted the authority to investigate all complaints alleging violation of the Arkansas Model Rules of Professional Conduct and impose any sanctions permitted and deemed appropriate. During 2002, major revisions to the Procedures adopted by Per Curiam Order of the Arkansas Supreme Court on July 9, 2001, effective on January 1, 2002, were implemented.

**History:** Amendment 28 to the Arkansas Constitution was adopted by the voters in 1938. The amendment placed with the Arkansas Supreme Court the authority to regulate the practice of law in Arkansas and to regulate, and thereby discipline, attorneys. In 1939 the Bar Rules Committee, an entity of the Arkansas Bar Association and the forerunner of the present Committee on Professional Conduct, was established. In 1940 the Canons for Professional Conduct of Lawyers was approved. The Arkansas version of the American Bar Association’s Model Code of Professional Responsibility was first adopted by the Arkansas Supreme Court in 1970. A revised version of the Code became effective July 1, 1976. The Arkansas version of the American Bar Association’s Model Rules of Professional Conduct was adopted by the Arkansas Supreme Court and became effective January 1, 1986. Various revisions have been made to the Arkansas version of the Model Rules since 1986. Comprehensive revisions became effective May 1, 2005, as the Arkansas Rules of Professional Conduct, now found at pages 1147-1267 of the 2007 Court Rules Volume of the Arkansas Code.

## ***II. Structure***

### **1. COMMITTEE ON PROFESSIONAL CONDUCT**

For the year 2008, the Committee continued to operate in the new model of three Panels established by the January 1, 2002, revisions to the Procedures. Late in 2008, the Supreme Court authorized and selected members for four full panels effective January 1, 2009, hereafter known as Panels A, B, C, and D (Reserve). Each panel is composed of seven members appointed by the Arkansas Supreme Court. Five are lawyers, with one lawyer appointed from each Congressional District and one from the State at large. The remaining two positions are filled by persons who are not lawyers and are selected by the Arkansas Supreme Court from the State at large. Panel membership in 2008 was as follows:

Panel A:       Gwendolyn Hodge, Little Rock, Attorney at Large  
                  Win Trafford, Pine Bluff, Attorney, Fourth Congressional District  
                  Phillip Hout, Newport, Attorney, First Congressional District  
                  Steve Shults, Little Rock, Attorney & Panel Chair, Second Congressional District

Jerry Pinson, Harrison, Attorney, Third Congressional District  
Dr. Patricia Youngdahl, Little Rock, Non-attorney at Large  
Helen Herr, Little Rock, Non-attorney at Large

Panel B: Henry Hodges, Little Rock, Attorney, Second Congressional District  
J. Michael Cogbill, Fort Smith, Attorney, Third Congressional District  
Barry Deacon, Paragould, Attorney, First Congressional District  
Valerie L. Kelly, Jacksonville & Panel Chair, Attorney at Large  
John L. Rush, Pine Bluff, Attorney, Fourth Congressional District  
Dr. Rose Marie Word, Pine Bluff, Non-attorney at Large  
Sylvia S. Orton, Little Rock, Non-attorney at Large

Panel C: Honorable Kathleen Bell, Helena, Attorney, First Congressional District  
Kenneth R. Mourton, Fayetteville, Attorney, Third Congressional District  
Searcy Harrell, Jr., Camden, Attorney & Panel Chair, Fourth Congressional District  
Professor Scott Stafford, Little Rock, Attorney, At Large  
Robert D. Trammell, Little Rock, Attorney, Second Congressional District  
Beverly Morrow, Pine Bluff, Non-attorney at Large  
Rita M. Harvey, Little Rock, Non-attorney at Large

Panel D (Reserve):

Joe A. Polk, Little Rock, Attorney at Large  
William P. Watkins, III, Rogers, Attorney at Large  
James A. Ross, Jr., Monticello, Attorney at Large  
Sue Winter, Little Rock, Non-attorney at large  
Elaine Dumas, Little Rock, Non-attorney at large

2008 Executive Committee:

Gwendolyn Hodge, Attorney, Committee Chair  
Sylvia Orton, Little Rock, Committee Secretary  
Steven Shults, Little Rock, Panel A Chair  
Valerie Kelly, Jacksonville, Panel B Chair  
Searcy Harrell, Jr., Camden, Panel C Chair

Panel C primarily serves: (1) as the review panel for dismissals of complaints by the staff, (2) as a third hearing panel as needed, and (3) individual Panel C members are used as substitute panel members when a member of Panel A or B is not available or has disqualified in any case on a ballot vote or a hearing. Panel D members are substitutes as needed for members of the other three panels who may not be available or who recuse in a case.

## **2009 COMMITTEE MEETING CALENDAR:**

January 16, 2009	Panel A
February 20, 2009	Panel B
March 20, 2009	Panel A
April 17, 2009	Panel B
May 15, 2009	Panel A
June 19, 2009	Panel B
July 17, 2009	Panel A
August 21, 2009	Panel B
September 18, 2009	Panel A
October 16, 2009	Panel B
November 20, 2009	Panel A
December 11, 2009	Panel B

## **2. OFFICE OF PROFESSIONAL CONDUCT**

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, which is housed in the Justice Building located on the Arkansas State Capitol grounds in Little Rock. The Office of Professional Conduct receives all complaints involving attorneys licensed to practice law in the State of Arkansas, investigates the complaints, provides assistance in the preparation of formal complaints, and processes formal complaints for submission to the Committee. The Executive Director for the Committee is Stark Ligon. The budget of the Committee and Office for 2008-2009 is over \$700,000, totally funded by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

The Office of Professional Conduct is staffed by four staff attorneys, an administrative assistant, a secretary, and an investigator. The staff attorneys perform all duties and possess such authority of the Executive Director as the Executive Director may delegate, except for the final determination of sufficiency of formal complaints. The staff attorneys during 2008 were Nancie M. Givens - Deputy Director, Michael E. Harmon - Senior Staff Attorney, and Gwendolyn L. Rucker - Staff Attorney.

In calendar 2008, as in previous years, the staff presented a number of “continuing legal education” programs or speeches on law-related topics across the state.

The Arkansas Supreme Court has not authorized the Office of Professional Conduct to give advice or legal opinions, formal or informal, on legal or ethical issues to anyone. The Office does provide information, where it is available and can be done without being advice or legal opinion.

The Office of Professional Conduct provides staff support for the Supreme Court’s Unauthorized Practice of Law Committee and the Client Security Fund Committee.

### ***III. Administration***

The Office of Professional Conduct receives telephone calls, letters, e-mails and faxes from individuals across the country requesting information on how to initiate complaints against attorneys licensed to practice law in the State of Arkansas. During the 2008 calendar year, the office sent 1,323 grievance forms to persons requesting one, down from 1,546 sent out in 2007.

During the 2008 calendar year, the Office opened new files on 859 grievances on attorneys alleged lawyer misconduct, up from 819 files opened in 2007.

In 2008, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2008 and carry-over cases from previous years, 786 files were closed:

### ***IV. Formal Actions Initiated***

In 2008, there were 114 new formal attorney discipline cases opened for the Committee on Professional Conduct for panel action, including five “voluntary resignations” and eight reinstatements, down from 140 total new formal cases opened in 2007.

### ***V. Final Committee Actions***

Final action was taken in 123 different files involving Arkansas attorneys during Calendar Year 2008 by the Committee on Professional Conduct. Of the 123 finalized cases in 2008, one (1) was a 2002 case, six (6) were 2006 cases, forty-four (44) were 2007 cases, and seventy-two (72) were 2008 cases. There are six primary forms of action, or sanction, that the Committee on Professional Conduct may take. Actions of the Committee are shown in the following table. A warning is non-public. The other forms of sanction are public.

**1. 2008 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries**

Type Action	Panel A	Panel B	Panel C	Total
No Actions	9	4	0	13
Warnings	29	12	0	41
Cautions	11	22	1	34
Reprimands	13	13	0	26
Suspensions	6	17	0	23
Interim Suspensions	1	1	0	2
Initiate Disbarment	2	3	0	5
Dismissed on motion	2	2	1	5
Abated by death	0	0	0	0
Voluntary resignations	2	1	0	3
Voluntary Inactive	0	0	0	0
Consents*	29	31	0	60
Consents denied*	2	0	0	2
To Involuntary Inactive	0	0	0	0
JLAP Referral	3	0	0	0

\* This number is included in other types of dispositions

**2. EIGHT (8) YEAR STATISTICAL COMPARISON 2001-2008 (Unofficial)**

Category	2001	2002	2003	2004	2005	2006	2007	2008
Discipline files opened	873	1,028	972	892	826	804	819	859
Closed by staff action	691	737	825	796	868	1137	784	786
Formal Complaints filed	149	186	200	164	159	156	140	114
Supreme Court Referrals	34	45	50	40	34	39	50	33
Other Judicial Complaints	13	12	12	8	8	19	6	4
Other from Court Records				24	7	16	9	15
Formal Complaints closed	135	178	185	211	181	173	182	122
No Actions	12	30	15	24	18	19	13	10
Warnings	45	53	54	38	33	53	41	37
Cautions	14	31	28	53	41	29	34	20
Reprimands	26	35	37	36	31	30	26	14
Suspensions	19	14	20	9	17	12	23	12
Surrenders	13	5	5	11	6	7	1	6
Merged into surrender		1	14	29	5	4	0	6
Disbarments initiated	6	3	3	3	7	2	1	1
Disbarments ordered (SCt)		0	0	3	0	2	2	2
Reinstatements granted	3	3	8	10	13	11	6	0
Consent dispositions	13	35	54	71	51	64		45
ArLAP Referrals	N/A	2	0	0	1	3	0	0
# Attys Publicly Sanctioned*	57	61	72	101	102	68	67	49

\* includes several attorneys with multiple separate sanctions

N/R - not recorded. Some of this information is available from a manual review of old files, but limited staff time and other priorities has not allowed it to be compiled yet.

## ***VI. 2008 - Most Common Rule Violations***

In the 2008 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Model Rules 1.3 and 8.4(d). Model Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client. Model Rule 8.4(d) states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice. The following listing contains the Arkansas Model Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the ten most frequently violated Rules.

Arkansas Rule #	# Alleged	# Found	Rank (# Found)
1.1	34	18	3
1.2(a)	15	7	
1.3	66	33	1
1.4(a)	4	2	
1.4(a)(1)	2	1	
1.4(a)(2)	1	0	
1.4(a)(3)	15	12	5
1.4(a)(4)	10	9	7
1.4(b)	6	4	
1.5(b)	1	1	
1.5(c)	2	1	
1.7(a)	6	3	
1.7(b)	2	2	
1.8(a)	1	1	
1.8(b)	1	1	
1.8(j)	1	1	
1.9(a)	3	1	
1.13(g)	1	1	

1.15(a)	3	3	
1.15(a)(1)	1	1	
1.15(a)(4)	1	1	
1.15(b)	1	1	
1.15(b)(1)	2	2	
1.15(b)(2)	2	2	
1.16(d)	5	4	
3.1	4	1	
3.2	3	1	
3.3(a)	2	2	
3.3(a)(1)	1	0	
3.4(b)	1	0	
3.4(c)	34	16	4
3.5(d)	1	0	
4.2	1	1	
4.4	2	0	
5.3(b)	1	1	
5.5(a)	3	2	
7.3(a)	1	1	
8.1	2	2	
8.4(a)	1	1	
8.4(b)	2	1	
8.4(c)	14	10	6
8.4(d)	75	33	2

## ***VII. “Practice Aging” of Attorneys Disciplined (2006)***

Of the 2008 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, attorneys were sanctioned as follows:

Years licensed	# of attorneys disciplined	Percentage
1-10	18	15.4%
11-20	33	28.2%
21-30	39	33.3%
31-40	18	15.4%
40+	9	7.7%

(One attorney was sanctioned five times in 2008; another was two times.)

## ***VIII. 2008 FINES, RESTITUTION & COSTS ASSESSED***

	Imposed in 2008	Collected in 2008
1. Fines	\$21,000.00	11,250.00
2. Restitution	\$10,233.64	76,997.83
3. Costs	\$3,400.00	4,173.50
Total	\$34,633.64	92,421.33

(Note: some of the collections in 2008 were assessed in cases finalized in earlier years.)

## ***IX. 2008 Trust Account “Overdraft” Reporting***

45 Total reports received in 2008 from all banks and reporters  
(compared to 64 in 2007)

2008 and earlier reports reviewed by staff in 20078 and actions taken include:

40	Closed by private letter disposition
9	Still open files - under investigation
0	Formal complaints filed in 2008
2	Formal complaints pending to be filed
0	Public sanction

The overwhelming majority of overdraft reports were due to some for of “attorney/firm error” such as bookkeeping math mistakes, failure to make timely deposits of settlement funds, release of settlement checks to clients and third parties before settlement funds were available in the trust account, depositing checks into the wrong account, failure to account for IOLTA interest withdrawals or bank service fees, client fee and expense checks bouncing, etc. Some admitted bank errors are reported.

## APPENDIX A - 2008 “PUBLIC” ATTORNEY DISCIPLINE SUMMARIES

(Listed alphabetically by attorney name within each “sanction” category)

### **DISBARRED:**

**SHEILA WHARTON**, AR Bar No. 80206, of Shreveport, Louisiana, who was previously licensed to practice law in Arkansas and Louisiana was reciprocally disbarred by the Supreme Court of Arkansas on February 21, 2008, as the result of the prior Order disbaring her in the State of Louisiana. On October 23, 2007, the Office of Professional Conduct received information from the Disciplinary Board in Louisiana concerning Ms. Wharton’s disbarment in Louisiana. Pursuant to Section 14.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, the Committee caused a Petition to Reciprocally Disbar to be filed with the Arkansas Supreme Court. On the basis of that Petition, the Court reciprocally disbarred Ms. Wharton in Arkansas.

### **DISBARMENT (INITIATE PROCEEDINGS):**

**OSCAR A. STILLEY, Bar #91096**, of Fort Smith, by Committee Panel B Findings & Order filed June 23, 2008, in CPC 2007-062, was referred for disbarment proceedings, with the violation of Rules 3.4(c), 4.4(a), and 8.4(d) in this case arising from a complaint by Sebastian County Circuit Judge Stephen Tabor, directed to be added to the pending disbarment proceeding, No. 08-73. [This case, No. 08-73, is still pending as of 3-18-09.]

As a result of an Order by then-Circuit Judge James Marschewski in a long-running case in Sebastian Circuit Court called Parker v. Perry, in January 2005, Stilley was found in contempt and sentenced to thirty (30) days in jail and fined \$50.00 a day until he complied with the provisions of the earlier orders of that court. In September 2006, the Arkansas Supreme Court affirmed the January 2005 Order in Stilley v. Fort Smith School District, No. 05-666, 367 Ark. 193. After rehearing was denied, the Mandate issued and the matter was back before the Sebastian Circuit Court. In the interval, Judge Marschewski was appointed a United States Magistrate Judge in Fort Smith and Stephen Tabor was appointed in his place as a Circuit Judge.

Judge Tabor issued an Order directing Stilley to report to jail on February 15, 2007, to begin serving the sentence imposed by Judge Marschewski in January 2005. On March 2, 2007, Stilley filed for a Writ of Habeas Corpus in federal court in Fort Smith styled Stilley v. Tabor, and he sought a “stay” of his State jail sentence while his federal habeas action was proceeding. The motion for “stay” was denied. Stilley was released from jail, and filed a Motion to Withdraw Petition in his federal “habeas” case, which was granted on May 16, 2007.

State court hearings were conducted in Parker on March 14, 2007 (by Judge Tabor), March 22, 2007, (by Judge Cox), and March 26, 2007 (by Judge Tabor). Judge Tabor then entered his Order on March 26, 2007, finding Stilley in contempt and again remanding him to jail, this time without eligibility for day-time “work-release.” On May 2, 2007, Judge Tabor conducted another hearing in Parker. He then referred this matter to the Committee. At the March 14, 2007, hearing Judge Tabor clearly informed

Stilley that matters that were settled in the 2006 appeal would not be relitigated in further proceedings in Parker. While Judge Tabor was out of state after the March 14, 2007, hearing, on March 15, in direct defiance of Judge Tabor's orders, Stilley caused subpoenas and deposition notices to be issued to compel the appearance of certain persons and officials, including Judge Marschewski, at depositions Stilley planned to take on March 23, 2007, in Parker, for the purpose of relitigating issues that were already decided and settled in the 2006 state appeal. Judge Fitzhugh granted a motion quashing several of the depositions. Judge Cox heard the motion to quash other subpoenas on March 22, 2007, announced that the subpoenas would be quashed, and Stilley then withdrew his subpoenas in open court. Judge Tabor's "referral" letter details specific complaints he makes against Stilley arising out of these events including (1) Stilley's non-compliance with court orders to pay money sanctions and (2) by his attempting to relitigate matters settled by court rulings and appeals, in direct defiance of Judge Tabor's directives to not pursue such matters, when Stilley had subpoenas issued and served on several witnesses for their depositions to pursue the settled matters that were not to be relitigated.

### **SURRENDER OF LICENSE:**

**ERIC DEAN ARCHER, Bar No. 2001190**, formerly of Rogers, Arkansas, and currently in federal prison, petitioned the Court to accept the surrender of his law license after his plea of guilty and conviction filed April 30, 2008 in Case No. 07-CR-50075 in the United States District Court, Western District of Arkansas, of the felony offense of interstate transportation of stolen funds. In his plea, Archer acknowledged conversion of funds from nine clients totaling approximately \$93,000. The Court accepted his surrender on September 11, 2008, in Case No. 08-944, barring him hereafter from practicing law on his Arkansas license.

**RAYMOND E. BORNHOFT, Bar #85014**, of Fayetteville, petitioned the Court in No. 08-713 (Committee case CPC 2008-025) to surrender his law license in lieu of facing further disciplinary proceedings having the potential of serious misconduct sanctions. On June 26, 2008, the Court ordered the surrender of his law license. According to his Petition for Surrender of his law license, Bornhoft was the sole trustee of the Susan Greene Trust ("Trust") from March 2001, until he resigned on January 23, 2006, and was replaced as trustee by Delta Trust and Bank of Little Rock. After 2001, Bornhoft engaged in business operations in Northwest Arkansas as a member of Deep Stream, LLC and of J & J Dollar, LLC, entities with no connection to the Trust, and from which the Trust received no benefit. Starting in late 2003, the LLCs borrowed substantial funds from Great Southern Bank of Springfield, MO, to buy lots and build speculative homes in Benton County, Arkansas. Bornhoft's personal and family financial situation became distressed during this time frame. In August 2005, Bornhoft signed and caused the issuance of a \$117,529.05 Trust check to Great Southern Bank for an obligation owed there by J & J. Dollar, LLC. In September 2005, Bornhoft met with Susan Greene and her attorney and reviewed purported assets of the trust and a trust balance sheet he supplied them. The documents were not accurate, and Bornhoft made material misrepresentations of the true financial condition of the Trust and its assets. On October 26, 2005, Bornhoft agreed with Susan Greene that he would resign as the trustee in early 2006. On November 8, 2005, Bornhoft signed and issued a \$500,000 Trust check to Great Southern Bank for an obligation owed by J & J. Dollar, LLC. Bornhoft admitted he breached his fiduciary duty as trustee to the Trust by these two checks, and that he converted these Trust funds to an

unauthorized and personal use.

On November 21, 2005, Bornhoft purchased a bare residential lot next door to his residence near Fayetteville for a price of \$126,471. To fund this purchase, he had a Little Rock investment firm wire transfer \$126,471.52 of Trust funds to the title company. In using these Trust funds, Bornhoft admitted he breached his fiduciary duty to the Trust and that he converted these Trust funds to an unauthorized and personal use. Since this lot was purchased, it has been encumbered by Bornhoft to the point where there is no equity available in it now to reimburse the Trust. In June 2006, Delta Trust and Bank, as new Trustee of the Trust, sued Bornhoft in Pulaski Circuit Court Case No. CV-2006-6671, for negligence, breach of fiduciary duty, conversion, fraud, and fraudulent concealment, alleging the misuse of around \$3,000,000 of Trust assets. After his meeting on October 26, 2005, with Susan Greene and her attorney, and prior to his resignation as trustee on January 23, 2006, without notice to Ms. Greene or any representative of hers, Bornhoft disbursed a total of about \$1,438,000 in Trust funds on the “Randy Charette Loan” described in the Pulaski Complaint. This case was settled in May 2007, when Bornhoft’s professional liability carrier paid his policy limit of \$1,000,000 and he was released personally from further monetary claims of the Trust. The \$1,000,000 payment did not begin to cover the full extent of the total financial loss of the Trust that occurred as a result of Bornhoft’s activities as trustee. He acknowledged that his conduct was “serious conduct” as defined in the Arkansas Rules of Professional Conduct, for which the presumptive sanction is disbarment, and that he violated at least Rules 8.4(a) and 8.4(c) by his dishonest conduct in this matter. Bornhoft is also licensed in Texas.

**LARRY GENE DUNKLIN, Bar No. 81051**, of Little Rock, petitioned the Court to accept the surrender of his law license based on his acknowledged serious misconduct involving at least two instances where his attorney trust account failed to contain funds due to his clients. After early 2006, Dunklin’s trust account failed to contain \$8,333.33 in settlement funds which he was to pay to either his client McBride or a firm, Ingenix, that had paid her medical bills in that amount following her accident. This sum remains unpaid and unaccounted-for. After March 2007, his trust account failed to contain approximately \$10,000 he was to distribute to his Rodgers clients from their settlement. In late June 2007, he was able to obtain sufficient funds from a friend to pay these clients. Formal disciplinary complaints had been filed against Dunklin arising from each of these situations. Rather than resist these charges, he offered his surrender. The Court accepted his surrender on September 18, 2008, in Case No. 08-1055, barring him hereafter from practicing law on his Arkansas license.

**DONNY G. GILLASPIE, Bar #61010**, of El Dorado, petitioned the Court in No. 08-490 (Committee case CPC 2008-025) to surrender his law license in lieu of facing further disciplinary proceedings in other pending matters having the potential of serious misconduct sanctions, and because of his extensive prior disciplinary history. On May 1, 2008, the Court accepted the surrender of his Arkansas law license.

**BILL R. HOLLOWAY, Bar No. 65022**, formerly of McGehee, Arkansas, in No. 08-1411, petitioned to surrender his Arkansas law license after entering a guilty plea, to two felony offenses of mail fraud involving funds Holloway converted to other use from one client’s settlement. in case No. 08-cr-411 on November 21, 2008, in United States District Court in the Eastern District of Arkansas. He violated Arkansas Rule 1.15 (trust account misconduct), 8.4(b) (criminal acts), and 8.4(c) (dishonest conduct).

The Arkansas Supreme Court accepted his surrender by Per Curiam issued December 19, 2008, and disbarred him. Holloway had been a long-time solo personal injury practitioner in Southeast Arkansas. In his Petition to Surrender Law License, he stated that over the past several years he had knowingly converted and misappropriated to his personal use funds from settlements of a number of his clients, in part to support an expensive lifestyle. He did not deposit into his attorney trust account all funds belonging to clients that were required to be placed there. He failed to pay over to several clients funds to which they were entitled, after persuading the client to leave part of a settlement with him to “invest” and pay them a regular monthly amount on their investment and its earnings. In executing these schemes, he admitted he was basically paying older clients from funds he obtained from new settlements for other clients. He also attached to his petition a listing of a number of other clients in similar “missing settlement funds” situations with him.

His Petition listed four specific clients whose funds he misappropriated and acknowledged the amount of missing funds for them alone could be around \$440,000. He admitted he had received a fee of \$140,000 to represent a client charged with capital murder in mid-2007, in a case in which the State was seeking the death penalty, and that client’s defense funds were gone. He admitted he gave an auto dealership a bad check for the sales price difference of \$4,350 on a car swap in November 2007. As this matter was pending in 2008, someone paid off and picked up this check for him before it was to be turned over to the state criminal authorities. He acknowledged that he now has no assets other than possibly his Social Security benefits and that he is financially insolvent. He agreed that if he should later be found to have unencumbered assets, they may be turned over to the Supreme Court Client Security Fund or any other proper court-supervised authority to attempt to make restitution to the clients who have suffered financial losses due to his actions.

**VANCE BENTON ROLLINS, Bar #75108**, formerly of Camden and Hot Springs, petitioned the Court in No. 08-448 (Committee case CPC 2008-001) to surrender his law license. Rollins was convicted at trial in 2007 in Perry County Circuit No. CR-2007-02 of felony manslaughter (case now on appeal as CACR08-608) and thereafter entered a guilty plea to felony drug charges in Ouachita County Circuit No. CR-2007-013-3, and is currently serving his sentence. As a result of his felony conviction, he violated Rule 8.4(b). On April 24, 2008, the Court ordered the surrender of his law license in lieu of disbarment proceedings.

**FRANK B. WHITBECK, Bar No. 76010**, of Little Rock, while awaiting sentencing, petitioned the Court to accept the surrender of his law license after his plea and adjudication of guilt on May 8, 2008, in Case No. 07-CR-010 in the United States District Court, Eastern District of Arkansas, to a felony offense involving his submission of false financial reports for 2001-2002-2003 to the Arkansas Insurance Department for Signature Life Insurance Company of America, which was owned and controlled by Whitbeck. The Court accepted his surrender on September 4, 2008, in Case No. 08-980, barring him hereafter from practicing law on his Arkansas license.

#### **INTERIM SUSPENSION:**

**BILL R. HOLLOWAY**, Bar No. 65022, of McGehee, Arkansas, was placed on interim suspension by Order in CPC 2008-003, filed on January 28, 2008, pending filing of formal disciplinary charges

involving allegations of client funds missing from his trust account and other matters.

**BARRY J. JEWELL, Bar No. 84081**, of Little Rock, who is licensed in both Arkansas and Texas, had his Arkansas law license placed on interim suspension on December 1, 2008, in Committee case No. CPC 2008-102, primarily as a result of his being found guilty at a jury trial in United States District Court case No. 07-cr-103 on August 13, 2008, of one felony count of aiding and abetting tax evasion. He is awaiting sentencing at this time. By Order filed September 23, 2008, Chief United States District Judge Leon Holmes suspended Jewell's privilege to practice law in the United States District Court, Eastern District of Arkansas. It is anticipated that state disciplinary charges will be filed against Mr. Jewell soon, arising out of this federal criminal jury adjudication and other matters revealed in his federal prosecution.

### **SUSPENSION:**

**GAIL L. ANDERSON Bar No. 95224**, of Little Rock, Arkansas, had her Arkansas law license suspended for two (2) months, effective August 19, 2008, and was ordered to pay \$604.42 in restitution on a complaint filed by Christine Scott in Case No. CPC 2006-152 in the Findings and Order filed August 19, 2008, for violation of Rules 1.1, 1.3, 1.4, 1.16(d), 8.4(d). Anderson was employed to represent Scott in a divorce action. Anderson failed to enter an appearance on behalf of her client; did nothing to assist her client in the legal matter; failed to communicate with her client; and, failed to return any unearned fee following termination of the employment. For failing to file a timely response to the Committee's Complaint, Anderson was also cautioned and fined \$250.

**ALVIN D. CLAY Bar No. 96075**, of Little Rock, Arkansas, was placed on Interim Suspension by Committee Order filed August 7, 2008, in Case No. 2008-060. Clay was found guilty by a jury in the United States District Court, Eastern District of Arkansas, in Case No. 04-CR-274, styled *USA v. Alvin Clay*, on June 4, 2008, of five felony criminal offenses, conspiracy to commit wire fraud (Count 1) and four Counts of engaging in a monetary transaction in property derived from wire fraud (Counts 2-5). Any felony is a "serious crime" as defined in Procedures. Clay is awaiting sentencing. By Order entered June 10, 2008, Chief United States District Judge Leon Holmes suspended Clay's right to practice in the federal courts of Arkansas.

**DON C. COOKSEY, Bar No. 74199**, of Texarkana, Texas, who is licensed in both Arkansas and Texas, had his Arkansas law license suspended for three (3) months, effective November 25, 2008, and was ordered to pay \$1,500 restitution for violation of Rules 1.1, 1.3, 1.4(a)(3), 3.4(c), and 8.4(d) by Committee Findings & Order filed November 25, 2008, on a complaint filed by Tracy McRaven in Case No. CPC 2008-028. Additionally, for his failure to respond to the formal complaint, Cooksey was reprimanded and fined \$1,000. In November 2006, Tracy McRaven paid Mr. Don Cooksey \$1,500 to represent him in a domestic relations case in Hempstead County Circuit Court. A hearing was initially scheduled for May 9, 2007. On that date, Mr. McRaven took off work without pay only to discover that the matter had been rescheduled by Mr. Cooksey for June 7, 2007. On the morning of June 7, thirty minutes prior to the scheduled hearing, Mr. Cooksey's office informed Mr. McRaven that they had again rescheduled the court date to June 20, 2007, due to conflicts in Mr. Cooksey's schedule. On June 20, 2007, Mr. McRaven appeared for the hearing, but Mr. Cooksey did not appear. The hearing took place

absent Mr. Cooksey, who was held in contempt and ordered to repay the \$1,500 in legal fees paid to him by McRaven. Following the Committee's decision, Cooksey filed a Motion for Reconsideration, which was denied. He has since filed a Request for Public Hearing, Notice of Appeal, and Motion to Stay Suspension. The Committee denied the request for public hearing and the motion for stay. The direct appeal is currently pending. On December 15, 2008, Cooksey repaid McRaven the court-ordered \$1,500.

**WILLIAM SCOTT DAVIDSON, Bar #81044**, of Jonesboro, on a complaint by Yvonne Bray of California, by Consent Findings & Order filed June 3, 2008, agreed to a three (3) month suspension effective on July 1, 2008, for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), and 3.2. Bray was injured at a store in Jonesboro in April 1999. Shelter Insurance offered her \$1,500 to settle her claim, while denying liability for her injury. In January 2000 she employed Davidson, who filed suit for Bray on April 25, 2002, her last day to do so. The case was set for trial on May 11, 2005. A defense motion for summary judgment was set for hearing on April 18, 2005, without the knowledge of Ms. Bray. Something happened that day, as evidenced by Davidson's call to her. The court file reflects he took a non-suit (dismissal without prejudice). Ms. Bray was not informed of the true nature of the matter.

On April 18, 2006, Davidson refiled essentially the same lawsuit. He failed to obtain timely service on the defendants, after having completed service on them in the first suit. He failed to respond to opposing counsel's August 2006 letter to the judge suggesting that dismissal for failure to obtain service was appropriate. In October 2006, orders were entered granting defense motions for dismissal with prejudice as to all defendants. Davidson did not inform Bray of this action. In November 2006 she was visiting in Jonesboro and went to the courthouse to review her file, after she was unable to obtain information from Davidson. Davidson's office was closed from November 1 - December 7, 2006, as his law license was suspended in another matter. In the courthouse file Bray found documents showing the dismissal of her case. She wrote Davidson on February 10, 2007, requesting the name of his malpractice carrier. She did not hear from him. In response, Davidson claimed that, after he refiled her suit in April 2006, Bray was told her case was marginal on liability and it was his understanding that she left it up to him to decide whether to proceed. He claims he decided not to proceed and thus did not obtain service. Bray rebutted this claim, stating Davidson never told her this, and in fact told her that she had a good case.

**ANN C. DONOVAN, Bar No. 78043**, of Fayetteville, Arkansas, was suspended for a period of twelve (12) months and ordered to pay restitution in the amount of \$1,400 by Findings & Order filed April 7, 2008, in Case No. CPC 2007-089, for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 3.3(a)(1), and 8.4(d). The Committee also imposed a reprimand for her failure to respond to the Complaint. The suspension is "stayed" pending her appeal. Bankruptcy Judge Richard Taylor referred Donovan following a hearing involving her former clients, William and Viola Parks, on a Motion for Attorney's Fees and a Motion for Turnover. The information developed at the bankruptcy hearing, which Donovan did not attend, was that she had filed grossly inaccurate Petition and Schedules for her clients. She failed to take remedial action to amend the filings. The Trustee waited over a year before filing the Motion for Turnover. Donovan took no action to fix the problems, which included listing the homestead, listing property not owned by the Parks and listing Mrs. Parks as having a large income even though she was on disability. Donovan was ordered to repay the Parks the attorney's fee they paid to her because she had

taken no beneficial action on their behalf. Donovan took no action with regard to the Order until she saw the transcript and realized the Court had referred her to the Committee. Donovan entered into an Agreement with her former clients and the Judgment remained against her, with an additional \$750 owed by her to the Parks. [As of 3-18-09, the appeal in No. 08-804 has been affirmed, but the suspension is still “stayed” pending the outcome of a motion to recall mandate while Donovan seeks certiorari to the United States Supreme Court.]

**ALICE WARD GREENE, Bar No. 95197**, of Little Rock, Arkansas, was suspended for twelve (12) months and ordered to pay \$975.00 in restitution. She was also reprimanded and fined \$500.00 for her failure to respond to the Complaint by Committee Findings & Order filed July 9, 2008, on a Complaint filed by Larry McCarty in Case No. 2008-20, for violation of Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.4(b), 3.4(c), 8.4(c) and 8.4(d). McCarty hired Greene in February 2007 to represent him in a divorce proceeding. Greene’s license to practice law was suspended for CLE Deficiency at the time of hire. Greene’s license also became suspended for failure to pay annual license fee in March 2007, but she continued to represent McCarty. Greene failed to return telephone calls or keep McCarty informed about the status of his divorce proceeding. Greene appeared in Court on two occasions when her license to practice law was suspended. Greene never told her client, opposing counsel or the Court that she was suspended. Greene continued to accept fees at all times when her license to practice law in Arkansas was suspended.

**JOHNNY E. GROSS, Bar No. 95156** of Bella Vista, had his law license suspended for twelve (12) months by Committee Findings & Order filed June 23, 2008, in CPC 2008-020, a complaint generated from an Opinion of the Arkansas Supreme Court in *Roger Barrett v. State*, No. CR 06-1490 issued in September 2007, for violation of Rules 1.1, 1.2(a), 1.7(a), 1.7(b), 4.2, 4.3, 7.3, and 8.4(d). Barrett was charged with capital murder in the August 22, 2000, death of Eunice “Yogi” Bradley, and initially was represented by appointment by Charles Duell, the public defender for Benton County, Arkansas. Gross succeeded to the representation as retained counsel and continued through trial. Barrett did not testify at his trial, and he was convicted and sentenced to life without parole in September 2001.

Mr. Gross had been licensed as an attorney for somewhat over five years when he started representing Barrett. At the time Gross had two years of private law practice, very limited criminal law experience, two jury trials, and had never tried a murder case. Another attorney represented Barrett in his direct appeal, which was affirmed in September 2003, *Barrett v. State*, 354 Ark. 187, 119 S.W.3d 485 (2003). A Rule 37 petition for post-conviction relief, on the basis of ineffective assistance of trial counsel (Gross), was filed. After a hearing on the Rule 37 Petition in February 2006, the same trial judge (Honorable Tom Keith) found that Barrett was entitled to relief in the form of a new trial. The State appealed. The trial court’s decision granting relief to Barrett was affirmed in No. CR-06-1490 in September 2007.

The 2003 Opinion from Barrett’s direct appeal reveals that Barrett and the decedent, Eunice “Yogi” Bradley, were having an affair while Barrett was married to Nola Barrett. On the night of Bradley’s death, she went to the home of the Barretts. All three were later at the Barrett home at the same time. According to Roger’s testimony at the 2006 Rule 37 hearing, Nola left, Roger and Bradley

were alone, and Bradley died at the Barrett residence after an “accidental” shooting during her struggle with Roger over his pistol. Roger then went to another residence where Nola was. Roger told Nola and the neighbor that he had accidentally shot Bradley. The three then went to the Barrett home, where they found Bradley dead on the living room couch from a gunshot wound. Apparently in the presence of both women, and with the assistance of Nola, Roger then stripped the covers off the sofa cushions and put them in the wash. There was evidence that when Nola called the Barrett residence that night, there were sounds of an argument in the background. At trial, Roger, through counsel Gross, attempted unsuccessfully to keep out testimony, as “confidential information” between spouses, that Roger told Nola he had accidentally shot Bradley.

In the Rule 37 proceeding, the trial judge found that, as trial counsel for Roger, Gross failed to formulate any kind of trial strategy and did not use reasonable professional judgment; failed to advise, counsel and communicate with Barrett as to his right to testify at his trial; Gross solicited Barrett’s case away from his more experienced and capital-case-qualified public defender attorney by “badmouthing” the public defender and misleading Barrett; Gross’s trial performance was significantly affected by his conflicting interests with Nola Barrett, Roger’s spouse; and Gross failed to communicate a better plea offer to Barrett and give Barrett an appropriate opportunity to consider and respond to the better, reduced charge-twenty year sentence offer before trial. The Supreme Court found that Gross failed to formulate any kind of trial strategy and did not use reasonable professional judgment for Roger.

In his response, among other matters offered, Gross stated that his client, Barrett, gave him five versions of what happened, all being accidental, and another version by the time of the Rule 37 hearing. He stated that other facts in the case caused him major problems with the client’s version that the shooting was an accident. He also stated that Nola gave several stories, was a suspect, and he kept her out of his meetings with his client Roger. He stated that the public defender, Duell, agreed with Gross at trial time that Roger’s “accident theory” was not a viable trial strategy. Gross denied soliciting Roger away from the public defender as a client, through the personal relationship between Gross’s secretary and Barrett’s son. Gross stated he discussed with Roger all plea offers received, and the client rejected all. He stated he had nothing to do with Nola being approached about taking, or her actually taking, the Fifth Amendment at Roger’s trial.

**TERRY LYNN SMITH, Bar No. 92035**, formerly of Texarkana and now of Umpire, Arkansas, had his Arkansas law license suspended for thirty-six (36) months, by Committee Consent Findings and Order filed and effective September 18, 2008, on a complaint filed by Wannell Bradshaw in Case No. CPC 2008-044, for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.5(c), 1.8(a), 1.8(b), 1.15(a)(4), 8.4(c), and 8.4(d). In November 1999, Wannell and Bob Bradshaw recovered a \$4,000,000 settlement against Ford Motor Company, resulting from an August 18, 1996, farm accident in Lockesburg, Arkansas that left Mr. Bradshaw completely paralyzed. After legal fees, expenses, and liens, the Bradshaws netted \$1,943,373.75. In 2000, the Bradshaws put their settlement in certificates of deposit. At renewal time, they decided to seek financial advice. In March 2001, the Bradshaws went to Smith, a C.P.A., for his assistance with tax preparation, estate planning, and investment management advice. The Bradshaws went to Smith because he was both an attorney and certified public accountant who came highly recommended by Bob Bradshaw’s co-worker. The Bradshaws gave Smith \$394,016.44 to invest.

There was no contract of employment, however, the oral agreement was that Smith would receive one percent of the income from the Bradshaw investments for his handling of their legal work. Smith prepared and filed the Bradshaw tax returns, prepared wills, and established a family trust. The parties agreed that the Bradshaws would receive \$2,000 per month from the investments handled by Smith unless a request for more was made. In July 2001, Mr. Bradshaw was diagnosed with cancer. During this time, the Bradshaws gave Smith another \$200,000 to invest. They did not ask for, nor did they receive, accountings. Mr. Bradshaw died in July 2002. Mrs. Bradshaw admits that her husband was the one who mainly took care of their financial business, especially with Smith. Mrs. Bradshaw continued to receive the monthly allowance checks from Smith following her husband's death. For most of 2003, she received \$4,000 per month from Smith, and at one point, she purchased land for over \$400,000 based on Smith's statement to her that she had over \$400,000.

In 2003, Smith borrowed \$100,000 from Mrs. Bradshaw to build a home for his mother. Mrs. Bradshaw made the loan using a certificate of deposit as collateral. Her interest rate for the loan to Smith was one percent over the interest rate she received for the certificate of deposit, but Smith agreed to pay Mrs. Bradshaw two percent over the certificate of deposit interest rate. To date, Smith has paid only \$800.00 on that loan. In November 2003, Smith requested that Mrs. Bradshaw meet with him. During that meeting, Mr. Smith read Mrs. Bradshaw a letter that outlined that all of her money was gone, primarily due to poor stock market performance. He offered to repay that money, and Mrs. Bradshaw accepted that offer. Smith forwarded to Mrs. Bradshaw two promissory notes, one for the \$100,000 loan and one for \$429,454.44. The latter number was the amount Smith arrived at after deducting the monthly draws, the income tax paid, his fees, and stock losses from the funds entrusted to him for investment. To date, Smith has paid nothing toward these promissory notes. Mrs. Bradshaw requested that Smith provide her with any documents he could produce to evidence that he ever invested the money given to him. Smith never produced such documents. In 2007, Mrs. Bradshaw hired an attorney and sued Smith. She has obtained a \$554,130.55, default judgment against him, plus interests, and \$50,000 for attorney fees, in Sevier County Circuit Court Case No. CV-07-001-1, *Wannell Bradshaw v. Terry Smith*. Nothing has been paid on this obligation. A search of the Secretary of State's website by the Office of Professional Conduct indicates that Smith owned TLS Investment Advisory Services, Inc, a for-profit corporation filed on May 30, 2001. Mr. Smith and his wife were the officers of this corporation which has since been dissolved. A search of the Arkansas Board of Public Accountants website shows that Mr. Smith is a certified public accountant as well.

As a condition of any future reinstatement, Smith is ordered to show a good faith effort toward satisfying a default judgment of \$554,130.55, plus interest, against him and in favor of Bradshaw. The Arkansas Supreme Court approved the consent disposition, with Justices Glaze and Danielson dissenting. Justice Glaze filed a written dissent, stating Smith should be disbarred for his conduct.

**OSCAR A. STILLEY, Bar No. 91096**, of Fort Smith, Arkansas, had his Arkansas law license suspended for six (6) months, effective February 25, 2008, in Case No. CPC 2002-077. This sanction was affirmed on appeal by the Arkansas Supreme Court in No. 06-972, by the Opinion issued June 21, 2007, and available on-line. The Mandate in No. 06-972 was issued on February 25, 2008, as a result of the action of the United States Supreme Court in No. 07-779 on February 19, 2008, denying Mr. Stilley's

petition for a writ of certiorari. [The details of this sanction are in the 2006 Annual Report, page 21.]

**JAMES F. VALLEY, Bar No. 96052**, of Helena-West Helena, Arkansas, was suspended for a period of thirty (30) days by Committee Findings & Order filed July 31, 2008, on a Complaint filed by Zederick Jackson in Case No. 2007-120, for violation of Rules 1.3, 1.4(a)(3), and 1.4(a)(4). Valley was employed to represent Jackson in a child support collection matter. Valley failed to file anything on Jackson's behalf from October, 1999, to November, 2000; failed to inform Jackson about the status of the legal matter; and failed to respond to requests about the status of the matter from Jackson and the Office of Professional Conduct.

**R. TED VANDAGRIFF, Bar No. 91028**, of Sherwood, Arkansas, had his Arkansas law license suspended for twelve (12) months, effective October 1, 2008, by Consent Findings & Order filed that date in Case No. CPC 2007-094, for violation of Rules 1.15(a)(1), 3.4(c), 5.5(a), and 8.4(c), on a complaint filed by Teresa Wineland. Mr. Vandagriff's Arkansas law license was administratively suspended on November 28, 2006, by the Arkansas State Board of Law Examiners due to his non-compliance with the requirements of Rule 6 of the Arkansas Rules for Minimum Continuing Legal Education. He failed to pay his 2007 Arkansas Supreme Court law license fee by March 1, 2007, as required by Rule VII of the Rules Governing Admission to the Bar. As a result, his law license was administratively suspended on March 2, 2007, and his license has not been reinstated by his payment of the license fee.

Mr. Vandagriff represented the Fields against the Calhouns, represented by Ms. Wineland, in a case in Garland County Circuit Court before Judge David Switzer. A hearing on motions, at which Mr. Vandagriff appeared and participated for the Fields, occurred on March 29, 2007. In preparation for trial on August 6, 2007, Ms. Wineland first learned of Mr. Vandagriff's suspension status on or about August 1, 2007, and brought it to the attention of Judge Switzer. Judge Switzer contacted Mr. Vandagriff and gave him until late Friday, August 3, 2007, to resolve his suspension issue for the upcoming trial, which he was not able to do. The trial had to be continued. Mr. Vandagriff also filed suit in Garland County Circuit Court on February 22, 2007, for the Fields against Darren and Jennifer Sorrells, who are not represented by Ms. Wineland. This case is assigned to Circuit Judge John Homer Wright. Mr. Vandagriff lawyered actively in both cases during the period when his law license was in suspension.

Starting in July 2005, Mr. Vandagriff wrote seven (7) checks from his attorney trust account, five of which appear to be directly for personal expenses, an impermissible use of a trust account. This practice came to the attention of the Office of Professional Conduct (OPC) by a series of automatic "overdraft notices" when these seven checks were presented against insufficient funds in his trust account. Five of the checks were returned "unpaid," and two were paid.

**RICHARD H. YOUNG, Bar No. 94149**, of Russellville, had his law license suspended for six (6) months, effective May 13, 2008, then the Mandate of the Supreme Court issued on the Opinion issued April 24, 2008, in Case No. 07-990, *Young v. Ligon*, on a complaint by Linnie Thomas of Russellville, an appeal of Committee case No. 2006-105, for violation of Rules 1.4(b) and 8.4(c). Young was the subject of an unrelated disciplinary complaint, No. CPC 2003-161, to which he had failed to file a response. That Panel Findings and Order, sanctioning him with a three (3) month law practice suspension, was signed March 3, 2004, and mailed to him that date. Young signed the "green card" for

delivery of that mail and Findings and Order on March 5, 2004. He failed to file a request for reconsideration and the Findings and Order became final on March 30, 2004. Young was notified of that fact by mail, as evidenced by the fact that he filed a Notice of Appeal from that Order on March 31, 2004, with the Clerk of the Supreme Court.

While all of the above was occurring, Ms. Thomas and her son Justin Thomas hired Young on March 22, 2004 to represent Justin on felony charges in Logan County Circuit Court. Young was paid \$3,000 of his \$10,000 quoted fee for the case by Ms. Thomas on March 22-23, 2004. Young never informed Justin or his mother that Young was involved with the disciplinary office and about to undergo a imminent law practice suspension that would prevent him from representing Justin for several months, at a minimum. After Young was suspended, he failed to notify Justin or his mother of that fact. Ms. Thomas learned of the suspension in the local newspaper. When she could not contact Young's office for information, she finally hired another attorney to represent Justin through his plea, when Young was actually suspended on March 30, 2004, one week after he was hired and paid to represent Justin. Ms. Thomas had paid Justin's new attorney \$2,650.00 as of the date of the Committee proceedings. Ms. Thomas asked Young for an itemized billing of his efforts for her son and for a refund. Young wrote her on May 31, 2006, that he would refund her \$2,500 and sent her a \$200 money order. Young has since made several small payments to her.

#### **REINSTATEMENT:**

**JAMES W. STANLEY, JR., Bar No. 75124**, of North Little Rock, had his Arkansas law license reinstated on June 19, 2008, in CPC 2007-024, as a result of the Opinion and order of the Arkansas Supreme Court issued that date in No. 07-845, which found the Committee had erred in its application of Section 14 of the attorney discipline Procedures ("reciprocal suspension") in issuing a five year suspension to Mr. Stanley on April 24, 2007. The Court found he had no right of appeal under the Procedures, but did grant his petition for writ of mandamus, citing the misapplication of Section 14 to suspension actions by federal agencies (here the Social Security Administration and the Veterans Administration) against Mr. Stanley, and the lack of notice and a hearing to him in the state proceeding.

#### **REPRIMAND:**

**GAIL L. ANDERSON Bar No. 95224**, of Little Rock, Arkansas, was reprimanded and ordered to pay \$608.47 in restitution on a complaint filed by Felicia Delph in Committee Case No. CPC 2006-140 in the Findings and Order filed August 19, 2008, for violation of Rules 1.3, 1.4(a)(3), 5.3(b), 5.5(a), 8.4(c), and 8.4(d). Anderson was employed to represent Delph in a divorce action. Anderson failed to pursue any legal action on Delph's behalf; failed to respond to requests for information from Delph; employed a nonlawyer who engaged in the unauthorized practice of law; allowed a nonlawyer complete access to the law office without supervision; allowed a nonlawyer to draft legal documents and to misrepresent who prepared the documents; and failed to properly supervise the nonlawyer, creating unnecessary delays in the divorce matter. For failing to file a timely response to the Committee's Complaint, Anderson was also cautioned and fined \$250.

**J. F. ATKINSON, JR., Bar No. 76003**, of Fort Smith, Arkansas, was reprimanded by Committee Consent Findings and Order filed September 19, 2008, on a complaint filed by Linda Cooper in Case No. CPC 2008-058, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(3), and 1.4(a)(4). Atkinson was hired by during September 2007 to represent her in a bankruptcy. Cooper's husband had passed away in June 2007 and she was having difficulty making all the bill payments. Atkinson was paid \$1,099 for fees and costs. \$299 of the total payment was for the filing fee for the bankruptcy. Cooper had great difficulty in contacting Atkinson and having him communicate with her. No bankruptcy petition was filed for Cooper prior to the time she terminated his services. He simply took no action to handle the matter for which he was hired. At the time Cooper signed her Affidavit for this complaint, Atkinson had not refunded any of the funds paid to him. Prior to entry of the Consent Order, Atkinson made full restitution to Cooper.

**MICHAEL WILLIAM FREY, Bar No. 96022**, of Camden, Arkansas, was reprimanded, fined \$1,500.00, and ordered to pay restitution in the amount of \$1,150.00. For his failure to respond to the Formal Complaint, he was cautioned and fined \$500.00 by Committee Findings & Order filed July 29, 2008, on a Complaint filed by Travis E. Johnson in Case No. 2008-032, for violation of Rules 1.1, 1.3, 8.4(d). Frey was employed to represent Johnson in a bankruptcy matter in 2007. Frey filed the bankruptcy petition on behalf of Johnson when he knew or should have known that the filing was prohibited under the current bankruptcy code as Johnson had previously filed for bankruptcy in 2000. Once the petition was filed, Frey failed to file all required supporting documents for his client. The failure to file the required documents and the prohibition against filing subsequent bankruptcy petitions within a set period of time resulted in the bankruptcy petition being dismissed.

**DONNY G. GILLASPIE, Bar No. 61010**, of El Dorado, Arkansas, was reprimanded and fined \$1,500.00 by Committee Findings & Order filed March 21, 2008, on a Per Curiam Order Complaint in Case No. 2007-127, for violation of Rules 1.3 and 8.4(d). Gillaspie represented Jayson W. Carroll in a criminal case where Carroll was convicted of escape and was sentenced to twelve years in prison. Gillaspie filed a timely notice of appeal. The record was to be filed by April 23, 2007. There were no timely requests for extensions of time to file the record. Gillaspie asserted that a Motion for Extension of Time to File the Record was considered at a hearing in Circuit Court on April 12, 2007. At that hearing the judge announced from the bench that the Motion was granted. He made a docket entry reflecting the announced decision and then directed the Prosecuting Attorney to prepare an appropriate Order. Gillaspie admitted that the Order was not entered until after the April 23, 2007, deadline for filing the record.

Gillaspie filed two untimely motions for extension of time, which were granted by the circuit court, the last setting the new docketing deadline at August 10, 2007. He tendered the record to the Supreme Court Clerk on August 14, 2007. The Clerk refused to file the record. Gillaspie filed a Motion for Rule on the Clerk, which was granted. The Supreme Court referred the matter to the Office of Professional Conduct. Gillaspie responded that failure to have a "time extension" order timely filed with the circuit clerk should not be attributed to him, as the duty to file the order rested with the Prosecuting Attorney's office.

**MAX M. HORNER, JR., Bar No. 2001067**, of Little Rock, Arkansas, was reprimanded by Committee

Findings & Order filed April 1, 2008, on a Complaint filed by Rosemarie Torres-Childers in Case No. 2007-110, for violation of Rules 1.15(a)(1), 1.15(b)(1), and 1.15(b)(2).

Rosemarie Torres-Childers and Benjamin Childers paid Horner & Marshall PLLC a \$2500 retainer to assist their son, Ernesto Vasques Macias, in filing a petition for the establishment of paternity, visitation, and child support. When Ernesto decided not to pursue the matter, Mrs. Childers requested a refund on the unused portion of the retainer. As of July 2007, Horner & Marshall had only earned \$93.58 of the \$2,500 retainer, leaving a \$2406.42 unused balance on the retainer. A refund has been made, but the retainer was never placed in the firm's trust account.

**WILLIAM M. HOWARD, JR., Bar No. 87087**, of Pine Bluff, Arkansas, was reprimanded and fined \$750.00 by Committee Findings & Order filed May 28, 2008, on a Per Curiam Order Complaint in Case No. 2007-131, for violation of Rules 1.3, 3.4(c), and 8.4(d). Howard represented Allen Phillips in a criminal case where Phillips was convicted of capital murder and sentenced to a term of life without parole in prison. The record was timely filed, and Howard then had until July 25, 2007, to file his brief. On July 24, 2007, Howard filed a Motion for Extension of Time, requesting an additional thirty days, which was granted. On the new deadline, Howard filed a second Motion for Extension of Time to file brief, requesting an additional thirty days. The motion was granted but marked as a "final" extension to September 8, 2007. When Howard filed no brief was filed by Howard, the State filed to dismiss the appeal, which the Court granted on November 8, 2007. At hearing he requested, Howard admitted to the allegations contained and discussed issues surrounding his conduct in the matter and his prior disciplinary history, which consisted of nine prior sanctions, all involving criminal appeals. Howard testified that he had been a social worker and went to law school to help people. He continued to assist people even when other lawyers would not. He took on more cases than he probably should. He represented Phillips at trial and on appeal. While researching and preparing the brief, Howard stated that he realized Phillips' appeal was not going to be successful. He was a solo practitioner with no staff support. He answered the telephone, typed his legal pleadings, and made house calls when necessary. He had two other appeals pending and was pressed for time with the upcoming deadlines. He became frustrated and disillusioned when it became apparent that no matter what was done, he could not prevail on Phillips' behalf. Howard told the Committee that, when he missed the deadline to file the brief, he believed the court would order him to finish the brief and was surprised when the court granted the State's motion to dismiss.

**WILLIAM M. HOWARD, JR., Bar No. 87087**, of Pine Bluff, was reprimanded and fined \$1,000 by Committee Findings & Order filed December 29, 2008, in No. CPC 2008-036, on a referral from the Arkansas Supreme Court, for violation of Rules 1.3 and 8.4(d). The sanction reflected his overall disciplinary history of similar appellate case problems. Mr. Howard represented Marcus Young in a Rule 37 Petition in Drew County Circuit Court, which was denied. Mr. Howard, filed a Motion for Reconsideration, which was deemed denied on May 31, 2007. On June 6, 2007, Mr. Howard filed a Notice of Appeal which only referenced the denial of the Motion for Reconsideration. Mr. Howard then filed the record with the Arkansas Supreme Court Clerk on June 15, 2007. Young's brief was due to be filed by July 25, 2007.

Mr. Howard asked for two briefing extensions. The court designated the second extension of time as a final one, with a deadline of September 8, 2007. On September 10, 2007, Mr. Howard tendered

a brief to the clerk. He was informed that he needed to file a Motion for Belated Brief as the brief was not timely tendered. No response from Mr. Howard to the letter was received by the clerk. On November 8, 2007, the Arkansas Supreme Court Clerk wrote Mr. Howard and advised him that a brief on Mr. Young's behalf was tendered on September 10; that he needed to file a Motion for Rule on the Clerk; and that no response had been received. Mr. Howard was given ten days from the date of the letter to file a brief or motion in the matter.

On December 17, 2007, Mr. Howard filed a Motion to File Belated Brief. On January 24, 2008, the Arkansas Supreme Court granted the Motion to File Belated Brief and referred the matter to the Committee on Professional Conduct.

On February 25, 2008, the State of Arkansas filed a Motion to Dismiss, stating that the appeal must be dismissed as Mr. Howard did not file a Notice of Appeal within thirty (30) days of the April 3, 2007, Order denying the Rule 37 Relief. Rule 37.2(d) states that "[t]he decision of the court in any proceeding under...[R]ule [37] shall be final when the judgment is rendered. No petition for rehearing shall be considered." As the Notice of Appeal was not filed until June 6, 2007, it was untimely. On March 13, 2008, Mr. Howard tendered an Opposition to Motion to Dismiss Appeal. Rule 2-1(d) of the Rules of the Arkansas Supreme Court require that responses be filed within ten calendar days of the filing of a motion. Mr. Howard's response was received seventeen days after the filing of the Motion to Dismiss Appeal and was, therefore, late.

On April 17, 2008, the Arkansas Supreme Court issued a *Per Curiam* Order granting the State's Motion to Dismiss Appeal, stating the "deemed denied" appellate rule does not apply in Rule 37 Petitions pursuant to Rule 37.2(d). Mr. Howard stated that he was unaware of Rule 37.2(d), which provided that no petition for rehearing shall be considered, and that he did not know that the "deemed denied" appellate rule did not apply in this type of case.

**JOHN MARSHALL MAY, Bar No. 2000039**, of Little Rock, Arkansas, was reprimanded, for violation of Rules 1.1, 1.2(a), 1.5(b), 8.1(a), and 8.4(c), and ordered to pay restitution in the amount of \$750.00 by Findings & Order filed April 16, 2008, in Case No. 2008-002. Larry and Liz Shaw, the complainants, are the parents of Larry Shaw, Jr. They hired May to prepare and file a Request for Clemency Application for Larry Jr. May denied this, asserting that he was hired only to assist and mail the documents. May did not take the action which the Shaws hired him to pursue. After the Shaws and Larry Jr completed a rough draft of the clemency form, they returned it to May, who signed it, completed other portions of it, left the remaining portion in pencil (which is not allowed by the regulations governing such applications) and mailed it. The Parole Board returned the application to Larry Jr because it was written in pencil. May was contacted and refused to return any of the \$750 fee paid to him.

**DAVID F. MOREHEAD, Bar No. 89143**, of Pine Bluff, was reprimanded and ordered to pay \$500 restitution, by Committee Consent Findings & Order filed June 23, 2008, in CPC 2008-022, on a Complaint filed by Leroy Langley, Jr., for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(3), 3.3(a), and 8.4(d). Langley employed Morehead in October 2005 and paid him \$709.00 (\$209.00 for his case filing fee and \$500.00 as a legal fee) to file a Chapter 7 bankruptcy, which Morehead filed. Langley's Petition certified that Langley needed to pay the \$209.00 filing fee in installments and that Langley had paid Morehead no funds by that date. His filing fee was due to be paid by the first date set for his meeting of creditors on

November 17, 2005. Even though Morehead had Langley's funds with which to pay the full filing fee, the fee was not paid. On November 25, 2005, Langley's case was dismissed for failure to pay the filing fee. Morehead failed to communicate this crucial development to Langley.

On September 20, 2006, Morehead filed a Motion to Reopen Case for Langley, and paid his filing fee of \$220.00. The Schedules Morehead refiled for Langley in 2006, appear to be the same Schedules filed by Morehead originally in 2005, and even recite again that Langley needed to pay the filing fee in installments. Morehead's statement of compensation again misstated to the court that he had received no funds from the debtor, when Morehead had received \$709.00 from Langley in October 2005. At a hearing in October 2006, the court denied Morehead's motion to reopen Langley's case, on the basis that the clerk's records did not show the filing fee to have been paid by that date. If the fee had actually been paid on September 22, 2006, as the docket reflects, for some unexplained reason Morehead was not prepared at the hearing to show proof of payment and salvage his client's case. No further action was taken and Langley was still without relief from creditors who continue to pursue him.

**RONALD CAREY NICHOLS**, Bar No. 90009, of Carlisle, Arkansas, was reprimanded and fined \$5,000 in No. CPC 2007-121 by Committee Findings and Order filed February 27, 2008, for violation of Rules 1.3, 3.4(c), and 8.4(d). . Mr. Nichol's sanction in this matter was enhanced pursuant to Section 19.L of the Procedures Regulating Professional Conduct of Attorneys at Law based upon his prior sanctions relating to appellate matters in CPC Docket Nos. 2002-156, 2003-004, and 2006-046. Panel B further imposed a separate sanction of caution and a fine in the amount of five hundred dollars \$500.00 for his failure to respond to the formal complaint as required by Section 9.B.

Mr. Nichols represented Anthony K. Randle in a criminal case in Pulaski County Circuit Court, in which Randle was found guilty of capital murder and sentenced to life without parole. After the appeal record was filed, Randle's brief was due by June 23, 2007. On May 17, 2007, Nichols filed a Motion to Be Relieved, stating Randle did not pay the agreed fee for representation. On June 7, 2007, the Arkansas Supreme Court denied the Motion.

On June 20, 2007, Mr. Nichols filed a second Motion to Be Relieved and a Motion for Extension of Time to File Appeal Brief. The Motion for Extension of Time was granted, making the brief due by July 9, 2007. On June 29, 2007, Nichols filed a second Motion to Extend Time to File Brief. The motion was granted and the brief was now due by August 8, 2007, with the notice stating the extension was a "final" one. No brief was filed. Nichols filed a Motion to File a Belated Appeal on August 16, 2007, and the State filed a Motion to Dismiss. On September 6, 2007, the Arkansas Supreme Court denied Nichol's second Motion to Be Relieved, declared Randle indigent, and appointed Nichols to represent Randle on the appeal. On September 13, 2007, the Arkansas Supreme Court granted Mr. Nichols' Motion to File Belated Appeal, and directed Nichols to file Randle's brief by September 28, 2007. The Court referred the matter to the Office of Professional Conduct. Mr. Nichols filed his client's brief on September 27, 2007.

On November 1, 2007, Mr. Nichols was served with a Committee complaint. He failed to file a response, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constituted an

admission of the factual allegations of the formal complaint and extinguished his right to a public hearing. Following issuance of the Committee's Findings & Order, Mr. Nichols filed a Petition for Reconsideration. Panel B of the Committee on Professional Conduct denied the Petition for Reconsideration.

**SHAWN A. OVERTON, Bar No. 2001120**, of Jacksonville, was reprimanded for violation of Rules 1.8(j) and 8.4(c) by Committee Consent Findings & Order filed December 12, 2008, on a self-referral by Overton that became Case No. 2008-078. On December 11, 2007, Overton, a Captain with the Army Judge Advocate General's Corps, self-reported to the Office of Professional Conduct (OPC) that the Department of the Army had charged him with adultery, dereliction of duty, and making false official statement in an investigation under Article 15, Non-Judicial Punishment. On June 17, 2008, the Department of the Army notified OPC of the same matters. The findings of the Army investigation were that (1) Overton, a married person, engaged in sexual relations in Missouri with his female legal assistance client, who was a service member's spouse; (2) Overton's conduct reflected adversely on his honesty, trustworthiness or fitness; and (3) Overton knowingly made false official statements. The Department of the Army issued Overton a reprimand, suspended him from performing Judge Advocate duties, revoked his 27(b)(2) certification to serve as trial or defense counsel for general or special courts-martial, and indefinitely suspended him from practice in Army courts-martial and in the U.S. Army Court of Criminal Appeals, even as a civilian attorney. The Department of the Army has also taken action to involuntarily separate Overton, causing him to lose his job and any future military pension or other benefits. This is the first Arkansas case in which a violation has been found of Rule 1.8(j), the rule effective May 1, 2005, specifically thereafter prohibiting sexual relations between attorneys and clients.

**LINDA R. SCRIBNER, Bar No. 86154**, of Bentonville, Arkansas, was reprimanded by Committee Consent Findings & Order filed June 23, 2008, on a Per Curiam Order Complaint, arising from No. CR-06-1141, *Robert Lee Sparkman v. State*, Opinion issued March 20, 2008, in Committee Case No. 2008-024, on her admission to violating Rules 1.1 and 8.4(d). In March 1997, the Arkansas Public Defender Commission certified Ms. Scribner as qualified to represent criminal defendants in cases at all levels, including as lead counsel in death penalty cases. These certifications, plus her substantial experience in criminal cases as a public defender from at least early 1990, through the time of the *Sparkman* case, indicate that in 2002 she then had the experience and ability to be expected to perform at a high level in criminal cases.

She represented Sparkman in his criminal case in Benton Circuit Court in 2002-2003. In April 2003, she filed a motion to suppress a custodial statement he had made in June 2002, after her appointment to represent him. She failed to allege as a critical basis for challenging the highly incriminating statement of her client that his Sixth Amendment constitutional "right to counsel" was clearly violated by law enforcement in the taking of this custodial statement in the absence of his counsel. Sparkman was convicted of raping a four year old female and sentenced to eighteen (18) years in prison. His conviction was affirmed on direct appeal in 2005. His Rule 37 petition was denied by the trial court, a ruling that was unanimously reversed by the Supreme Court in March 2008. Sparkman has now been granted a new trial at which his custodial statement may not be used by the State.

**MORRIS W. THOMPSON**, Bar No. 80145, of Little Rock, Arkansas, was reprimanded and fined \$500 in Committee case No. CPC 2007-019 by Findings & Order filed February 29, 2008, on a complaint by Joshua Karriem, for violation of Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 8.4(d).

Mr. Karriem was a Little Rock firefighter who was subjected to a disciplinary action. On August 14, 2006, Karriem consulted with about his legal situation and paid Thompson \$150. On August 22, 2006, Karriem was notified by the Little Rock Fire Department that he was suspended for a period of ten shifts without pay, beginning August 25, 2006, and was scheduled to return on September 24, 2006.

On September 8, 2006, Mr. Karriem was involved in a motor vehicle accident and was arrested. According to Karriem, he then employed Mr. Thompson to represent him in the criminal charges. Karriem signed a contract agreeing to pay \$1,500, with \$500 being paid on September 22, 2006, and the \$1,000 balance being paid \$250 each month for a period of four months. Karriem timely made the first payment of \$500.

On September 22, 2006, Mr. Karriem received a letter notice advising him that there was an administrative hearing scheduled for September 25, 2006 concerning his arrest following a motor vehicle accident. The letter stated that Karriem could waive the hearing by notifying the fire chief by 4:30 p.m, September 22, 2006. Karriem then employed Mr. Thompson on September 22, 2006, to represent him in a matter relating to the insubordination suspension. Thompson stated that he was not employed to represent Karriem at the September 25, 2006, hearing, as that was a separate matter from the matter set for October 29, 2006. Thompson did not appear at the September 25, 2006, hearing. The fee Mr. Thompson quoted Mr. Karriem for the civil service commission matter was \$2,500, with \$500 paid on September 22, 2006, and the remaining \$2,000 due \$250 each month beginning on February 15, 2007.

On September 27, 2006, Mr. Karriem was provided with a Pre-Termination Hearing Notice. The hearing was scheduled for September 29, 2006, and Karriem and Mr. Thompson appeared before the civil service commission on that date. On October 3, 2006, Karriem was placed on Administrative Leave as a result of his arrest, as he was found to have violated fire department regulations. On November 3, Karriem was notified that his employment was terminated. Karriem was advised of his right to appeal the decision to the Civil Service Commission and that a notice of appeal must be submitted in writing directly to the Commission within ten days of the date he was notified of the termination. The letter stated that it was Karriem's responsibility to ensure that the appeal notice arrived in the Human Resources Department by the deadline. Karriem took off from work in order to go to Mr. Thompson's office to discuss his legal matter. Karriem immediately notified Thompson that he had until November 13 to submit his appeal to the Civil Service Commission. Karriem thereafter tried to contact Thompson many times, leaving messages with his answering service, with both of his secretaries, and even by stopping at his office. On November 13, Karriem spoke to Thompson's secretary, who told Karriem that Thompson had submitted his appeal and for him "not to worry about it, as he [Mr. Thompson] had already taken care of it." Thompson stated that he was busy with a case in federal court and instructed his secretary to tell Karriem that he was busy and could not talk to him. Thompson stated that his agreement with Karriem was for representation on a different appeal and the criminal case.

Mr. Thompson stated that he spoke to Mr. Karriem on November 13 and that Karriem was irate, yelling, and demanding that he do something. Thompson asserted that he did not believe that he relayed anything to Karriem which would form a reasonable basis for Karriem to believe that Thompson would handle an appeal from the termination of employment.

Mr. Thompson admitted that he did prepare a notice of appeal by letter dated November 13, 2006 and placed it in the care of the United States Postal Service. Thompson said he filed it on the off chance that the Commission would accept it. The envelope Mr. Karriem received with his copy of the notice of appeal bore a postal cancellation of November 14, 2006. Karriem learned that Thompson had not taken care of his termination appeal when he called the Little Rock Human Resources Department. Karriem then called Thompson and asked him why this was not taken care of earlier. Thompson stated that it was a mis-communication between him and his staff.

On November 16, 2006, a letter was sent from the Little Rock, Human Resources Department to Mr. Thompson, stating the appeal request was untimely, as defined under Ark. Code Annotated 14-51-308, and, therefore, denied. Mr. Karriem then wrote Thompson on December 22, 2006, asking why his appeal was not filed within ten days following his receipt of the November 3 letter from the Fire Chief. Karriem also asked for a return of some of the money he paid. In response, Thompson wrote Karriem on January 15, 2007, but did not address why he failed to file a timely notice of appeal of the decision by the Fire Chief. He only responded as to why he did not refund any of the fees paid by Karriem.

**THOMAS LEWIS TRAVIS, Bar No. 95029**, of Little Rock, Arkansas, was reprimanded and fined \$1,000.00 following a public hearing by Committee Findings & Order filed July 29, 2008, on a Complaint filed by Matilde Martinez & Misty W. Borkowski, Esq., in Case No. 2008-004, for violation of Rule 1.16(d). (A Notice of Appeal to the Supreme Court of Arkansas has been filed by Travis in the matter). Travis was retained to represent Matilde Martinez in March 2001. He was hired to assist with immigration matters and other general legal matters. Travis no longer represents Martinez. Martinez and his new counsel, Borkowski requested on numerous occasions that Travis provide Borkowski with the Martinez files. Travis did not do so. He maintained throughout the proceedings that the files are his and not his former client's.

**CAUTION:**

**WILLIAM BRUCE BLEVINS**, Bar No. 70008, of North Little Rock, Arkansas, was cautioned, fined \$500.00, and ordered to pay \$1,300.00 restitution in No. CPC 2007-082, on a complaint by David Moffatt, by Committee Findings & Order filed March 10, 2008, for violation of Rules 1.4(a)(3), 1.4(a)(4), 1.16(d), and 3.4(c). Blevins was also separately cautioned and fined \$500.00 for failure to respond to the Complaint.

Mr. Moffatt was a neighbor of Jane Zeybel, who had erected a fence along the common property line between two properties. Moffatt wanted to add to the size of his house with the construction of a two car carport. In order to obtain a building permit, Mr. Moffatt ordered a survey of his property. The survey revealed that the fence his neighbor erected was over the property line and on Moffatt's side by a foot. Moffatt then sought the assistance of Mr. Blevins. On October 19, 2006, Mr. Moffatt sent a letter to Mr. Blevins and enclosed a check in the amount of \$1,500.00 for Mr. Blevins' representation.

On November 7, 2006, Mr. Moffatt wrote Mr. Blevins and asked that he be called about the current status of the case. Moffatt stated that he heard nothing from Blevins in response. On November 25, 2006, Moffatt wrote Blevins and asked him certain questions about the matter that he wanted

answered. Blevins did call Moffat to say that he would answer his questions promptly. According to Moffat, no answers were received from Blevins by December 16, 2006, so he wrote again and asked for information about the matter. In the letter, Moffat told Blevins that he would not be home during the Christmas holidays but that he would contact him upon return.

Mr. Moffat called Mr. Blevins during the weeks of January 15 and January 22. Moffat called Blevins on January 24, 2007, but was unable to speak with him. As a result, Moffat wrote Blevins on January 25, 2007, and asked that he return the file and the fee of \$1,500.00 as his services were terminated. Moffat went by Blevins' office and happened to catch him as he was leaving his office on March 26, 2007. Blevins apologized for the lack of response to the letters and telephone calls. Blevins admitted that Moffat deserved a refund but that he didn't have the money right then. Blevins said that he could not locate the file right then but that Moffat could come back later to pick up the file.

Mr. Moffat returned to Mr. Blevins' office a few days later. Blevins stated that he had located the file but wanted to discuss the situation more. Moffat agreed to provide Blevins with \$200.00 for his time and the telephone call but stated that he expected a return of the remaining \$1,300.00. On March 30, 2007, Moffat wrote Blevins and told him again that his services were terminated and that he expected a reimbursement of the retainer fee less \$200.00 for any legal services he rendered during the period of his employment.

Mr. Moffat filed a grievance with the Office of Professional Conduct in April, 2007. In May, the Office of Professional Conduct sent a letter to Mr. Blevins in an attempt to resolve the matter between Blevins and Moffat. Mr. Moffat was copied with the letter. The letter set June 22, 2007 for the matter to be resolved. Neither Mr. Moffat nor the Office of Professional Conduct received a response from Mr. Blevins after the letter was sent.

Rule VII.A of the Arkansas Rules Governing Admission to the Bar imposes an annual license fee upon each attorney actively licensed to practice law in the State of Arkansas, to be paid no later than March 1. Rule VII.C of the Arkansas Rules Governing Admission to the Bar states that failure to pay the annual license fee provide for in subsection A shall automatically suspend the delinquent lawyer from the practice of law in Arkansas. According to records maintained in the Arkansas Supreme Court Clerk's Office, William Bruce Blevins had not paid his 2007 annual license fees as of July 27, 2007.

On September 26, 2007, Mr. Blevins was served with a formal complaint along with a copy of all exhibits. Blevins failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constituted an admission of the factual allegations of the formal complaint and extinguished his right to a public hearing.

**ERNEST L. COCHRAN, Bar No. 2006009**, of Texarkana, Texas, was cautioned, for violation of 1.1 and 1.3, by Consent Findings & Order filed May 16, 2008, in Case No. 2008-005. Mr. Cochran represented Glenda Amerison in civil litigation arising out of an automobile accident. He failed to properly serve the defendant in the matter within 120 days after filing the lawsuit. As a result, the lawsuit was dismissed and she was without the ability to pursue her claims for her injuries from the

accident. Mr. Cochran advised Ms. Amerison he would be taking action on her behalf after her lawsuit was dismissed but he never followed through with providing her information about efforts taken. Ms. Amerison hired other counsel who assisted her in obtaining a settlement with Mr. Cochran based on the damages suffered as a result of attorney's conduct.

**DONALD W. COLSON, Bar No. 2005166**, of Benton, Arkansas, was cautioned by Committee Consent Findings & Order filed September 23, 2008, on a complaint filed by Jeffrey Ouellette in Case No. CPC 2008-055, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(1), 1.4(a)(3), and 1.4(a)(4). Colson was hired and paid \$500.00 during October 2006, to investigate a legal matter for Ouellette. Colson advised Ouellette that he had little or no experience in the type of matter about which Ouellette contacted him, but he would contact someone to check into the matter and perform an investigation as requested. Colson then contacted two individuals to perform the investigation. Neither was able to do so. The second of the two individuals advised Colson in December 2006 that he would not be able to assist. Colson did not contact anyone else to assist from then until he responded to a letter from the Office of Professional Conduct in March 2008. Colson did not contact Ouellette either to report any of this information. After being contacted by the Office of Professional Conduct, Colson still did not contact Ouellette by the date of the signing of the Affidavit in the disciplinary proceeding. After being served with the formal disciplinary complaint, Colson made full restitution to Ouellette and agreed to continue to look into the matter for him.

**STEPHEN FISHER, Bar No. 91073**, of Little Rock, Arkansas, was cautioned and ordered to pay \$300 in restitution on a complaint filed by Yolanda Amaya in Committee Case No. CPC 2008-048 in the Findings and Order filed August 15, 2008, for violation of Rules 1.1, 1.3 and 1.4(a)(3). Amaya hired Fisher in 2005 and paid him \$1,000.00 to represent her in a divorce proceeding. Fisher represented Amaya through entry of the Decree of Divorce. Thereafter, she experienced problems with her ex-husband because of his failure to comply with the terms of the Decree. Fisher agreed to represent Amaya in the post-Decree matters. Amaya paid Fisher a \$300.00 retainer for the post-Decree matters. Fisher was not diligent in his representation of Amaya in her post Decree matters. He delayed in filing pleadings after they were signed and verified by Amaya. Fisher also failed to obtain service of process and failed to obtain timely Orders extending the time for service of process. Fisher failed to keep Amaya informed of the status of her legal matter and failed to respond to her requests for information about her legal matter.

**JOHN FRANK GIBSON, JR., Bar No. 66021**, of Monticello, was cautioned and fined \$1,500 for violation of Rules 1.1 (competence in representation of a client) and 8.4(d) (conduct prejudicial to the administration of justice) by Committee Consent Findings and Order filed November 24, 2008, on a referral from the Arkansas Supreme Court in Case No. CPC 2008-039. The Arkansas Supreme Court referred Mr. Gibson to the Committee in a Per Curiam granting his Motion for Rule on the Clerk in the matter of *Randolph Morris v. State of Arkansas*, CR08-298. Mr. Gibson obtained an Order of extension of time to file the record on appeal, but the Order was for a period of time outside the maximum of seven months allowed by Court rule. Mr. Gibson believed that the Order was timely because it was from the Amended Judgment not the original Judgment. The Supreme Court held that the Amended Judgment was only to correct a clerical error and therefore Mr. Gibson was actually appealing from the original

Judgment which was the conviction of his client. Following the ruling, Mr. Gibson filed a Motion for Reconsideration. The Court denied the Motion. Mr. Gibson explained that prior to the Court's Per Curiam referring him to the Committee and granting his Motion for Rule on the Clerk, he was unaware of any case that interpreted Rule 5(b)(2) as being applicable to the judgment identified in the first notice of appeal and inapplicable to certain types of amended judgments. Mr. Gibson said he would have readily admitted his fault had he been aware of any such cases.

**LARRY J. HARTSFIELD, Bar No. 69030**, of Little Rock, was cautioned for violation of Rules 1.7(a) (conflict of interest-current clients) and 1.13(g) (organization as a client) by Committee Findings and Order filed November 13, 2008, on a complaint filed by Bennie Jean White in Case No. CPC 2008-045. Detection Systems, Inc. (DSI) is an Arkansas corporation duly organized and authorized to do business in Arkansas since 1976. At all relevant times, James Bottoms and Bennie Jean White were DSI shareholders. Mr. Hartsfield served as corporate attorney for DSI for many years. On February 2, 2006, Mr. Hartsfield brought suit on behalf of DSI against Bennie Jean White in Pulaski County Circuit Court, seeking injunctive relief against Ms. White, alleging interference with business relations and breach of fiduciary duty. White filed a Verified Answer, Counterclaim/Third Party Complaint, and Request for Interlocutory Injunctive Relief. On behalf of James Bottoms personally, Mr. Hartsfield answered White's counterclaim and filed a counterclaim against White. Hartsfield also filed a *lis pendens*. White filed a reply to Bottoms's counterclaim and a Motion to Dismiss. The court dismissed DSI's complaint and request for temporary restraining order. In her First Amended and Verified Counterclaim for derivative suit and renewed motion for injunctive relief against James Bottoms, Bennie Jean White asserted that Mr. Hartsfield was the corporate attorney for DSI and owed a fiduciary duty to DSI, thus preventing him from representing Bottoms in a dispute to determine ownership interests he had in DSI. She further asserted that she was a former client of Mr. Hartsfield in DSI-related and other business matters, as he actively represented her, Bottoms and DSI in property, corporate, business, and other matters and maintained the confidential information of every party involved. Mr. Hartsfield moved to non-suit, and the court granted the motion in November 2006.

**RICKEY H. HICKS, Bar No. 89235**, of Little Rock, was cautioned, fined \$1,000, and ordered to make restitution in the amount of \$328, for violation of Rules 8.1(a) (false statement in a disciplinary proceeding), 8.4(c) (dishonesty, fraud, deceit or misrepresentation) and 8.4(d) (conduct prejudicial to the administration of justice) by Committee Findings and Order in Case No. CPC 2008-043 filed October 21, 2008. In addition, Mr. Hicks failed to respond to the disciplinary complaint. He was cautioned and fined \$500 for the failure to respond pursuant to Section 9.C(1) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. A complaint was filed by Vickey Hedgecock of Hedgecock Court Reporting. Mr. Hicks verbally hired Ms. Hedgecock to provide him a copy of a deposition in federal civil litigation, wherein he was appointed to represent the Plaintiff. He also verbally hired Ms. Hedgecock to report a deposition he was taking in the litigation. Mr. Hicks failed to pay the bill in spite of invoices and reminders. In an effort to resolve the matter without discipline, Mr. Hicks was written about the matter by the Office of Professional Conduct. Mr. Hicks advised that he was appointed to the Plaintiff in the matter wherein the Court Reporter was hired and asserted that he needed to file a request with the Court in order to obtain payment to pay the Court Reporter and further, that he would do so. Mr. Hicks did not do so. Mr. Hicks also wrote later that he would just send a check to the Court Reporter, and he did not do that either.

**ROBERT N. JEFFREY, Bar No. 89110**, of Camden, was cautioned for violation of Rules 1.3, 3.4(c), and 8.4(d) by Committee Findings & Order filed December 30, 2008, on a Per Curiam Order Complaint in Committee Case No. CPC 2008-093. Mr. Jeffrey represented Edward McWilliams in a criminal case in Union County Circuit Court where McWilliams was convicted of Possession of a Firearm By Certain Persons in November, 2004, and placed on probation for five years. On March 4, 2008, Mr. McWilliams' probation was revoked and he was sentenced to a term of forty-eight months in the Arkansas Department of Correction. On March 14, 2008, an Amended Judgment and Commitment order was entered to correct a clerical error. Mr. Jeffrey filed a notice of appeal on April 7, 2008, from the original Judgment and Commitment Order filed on March 4, 2008.

On June 23, 2008, Mr. Jeffrey tendered the record from the lower court to the Arkansas Supreme Court Clerk. The clerk refused to file the record as the notice of appeal was filed more than thirty days following the entry of the judgment and commitment order which the notice of appeal stated was being appealed. Rule 4(a) of the Rules of Appellate Procedure—Civil, requires that a notice of appeal be filed within thirty (30) days from the entry of the judgment, decree or order appealed. As the Judgment and Commitment Order being appealed from was filed on March 4, 2008, a notice of appeal was due to be filed on or before April 3, 2008. Mr. Jeffrey was advised that he filed the notice of appeal late and needed to file a Motion for Belated Appeal. On June 23, 2008, Mr. Jeffrey filed a Motion for Rule on the Clerk. On September 4, 2008, the Arkansas Supreme Court treated the motion as a motion for belated appeal, allowed the appeal to proceed, and issued a *Per Curiam* Order referring the matter to the Office of Professional Conduct. Mr. Jeffrey admitted to the facts as stated herein and that his conduct violated the Rules alleged in the Office of Professional Conduct's complaint.

**TERRY GOODWIN JONES, Bar No. 2000090**, of Jonesboro, Arkansas, was cautioned by Committee Consent Findings & Order filed March 21, 2008, on a Per Curiam Order Complaint in Case No. 2007-117, for violation of Rules 1.3, 3.4(c), and 8.4(d). Jones represented Jerry Pearson in a criminal case where he was convicted of four counts of rape and sentenced to four consecutive terms of forty (40) years in prison. The record was timely filed. Pearson's brief was due by May 7, 2007. When no brief was filed, the State filed a Motion to Dismiss. The Court of Appeals denied the State's motion, and reset Pearson's brief due date as July 20, 2007. When no brief was filed, the State filed a Second Motion to Dismiss, which the Court of Appeals again denied, issuing a *Per Curiam* Order in September 2007, relieving Jones and appointing new counsel for Pearson. Jones responded to the Complaint stating that she spoke to her client after trial, reviewed the merits of an appeal, and Pearson chose not to appeal. However, the notice of appeal was filed. Jones changed her mailing address around this time and any notices or correspondence sent to her by the Clerk's office or the Attorney General were sent to her old address. When the notices were finally forwarded to her, the time for her to act had expired. She stated that had she known of the orders or deadlines, she would have complied with them. Jones stated that she did not deliberately engage in conduct which resulted in the delay of justice and, had she believed that her client wanted an appeal, she would have followed up in compliance with the scheduling order.

**NAIF SAMUEL KHOURY, Bar No. 75070**, of Fort Smith, Arkansas, was cautioned and fined \$500.00 in No. CPC 2006-057, by Committee Consent Findings & Order filed January 18, 2008, on a Per Curiam referral by the Supreme Court of Arkansas, for violation of Rules 1.3 and 8.4(d). Henry Vidal was charged with Possession of Cocaine With Intent To Deliver. Vidal entered a plea of guilty in exchange

for a sentence of forty years, with twenty years suspended. A Judgment and Commitment Order was entered on May 26, 2006. Mr. Khoury, who represented Vidal, filed two Motions to Vacate the Plea on June 21, 2006 and June 26, 2006. Pursuant to Rule 2(b)(1) of the Rules of Appellate Procedure—Criminal, if a trial court neither grants nor denies any outstanding post-trial motion within thirty days of its filing, the motion shall be deemed denied as of the thirtieth day, and the notice of appeal shall be filed within thirty days from that date. As there was no ruling from the Circuit Court on either motion within thirty days of June 26, 2006, the post-trial motion was deemed denied on July 26, 2006, and a notice of appeal was due to be filed no later than August 25, 2006. Mr. Khoury filed a notice of appeal on September 14, 2006, twenty days late. In his response, Mr. Khoury stated that the trial court held a hearing on August 15, 2006, at which time the trial court denied the post-trial motions filed on June 21, 2006, and June 26, 2006. Khoury believed that the time for the notice of appeal began to run at that time and not on the July 26, 2006, date. As he filed a notice of appeal on September 14, 2006, he believed his notice of appeal to be timely.

On March 5, 2007, Mr. Khoury tendered the record to the Arkansas Supreme Court Clerk. The Clerk refused to lodge the record as the notice of appeal was late. Mr. Khoury was advised by the Arkansas Supreme Court Clerk that he needed to file a Motion for Rule on the Clerk, which he did on March 14, 2007. The Arkansas Supreme Court granted the motion in a Per Curiam order and referred the matter to the Office of Professional Conduct.

**JOHN MARSHALL MAY, Bar No. 2000039**, of Little Rock, Arkansas, was cautioned by Committee Findings & Order filed March 21, 2008, on a Complaint filed by Daniel Sanders in Case No. 2007-115, for violation of Rules 1.1, 1.2(a), 1.3, and 3.4(c). May represented Sanders in a case in which he received a forty-five (45) year sentence. A *pro se* Motion for New Trial was filed, and then denied in May 2007. On May 17, 2007, Sanders wrote to May asking about his appeal. The letter was sent to P.O. Box 1717, Little Rock, AR 72203, and was returned unclaimed. In response to a letter sent him by the Office of Professional Conduct, May wrote that Sanders fired him on March 15, 2007, and informed May that he would instead use the public defender's office for his appeal. The letter to OPC was from P.O. Box 1717, Little Rock, AR 72203, the same address to which Sanders sent his letter requesting information from May on his appeal. The Rules of Appellate Procedure require trial counsel to continue representation of a convicted defendant throughout any appeal, unless permitted by the trial court or the appellate court to withdraw. May was not relieved by any court, nor did he file a notice of appeal on behalf of Sanders.

**PAT MARSHALL, Bar No. 2001012**, of Little Rock, Arkansas, was cautioned by Committee Findings & Order filed May 13, 2008, on a Complaint filed by Rosemarie Torres-Childers in Case No. 2007-109, for violation of Rules 1.15(a)(1), 1.15(b)(1), and 1.15(b)(2). Rosemarie Torres-Childers and Benjamin Childers paid Horner & Marshall PLLC a \$2500 retainer to assist their son, Ernesto Vasques Macias, in filing a petition for the establishment of paternity, visitation, and child support. When Ernesto decided not to pursue the matter, Mrs. Childers requested a refund on the unused portion of the retainer. As of July 2007, Horner & Marshall had only earned \$93.58 of the \$2,500 retainer, leaving a \$2406.42 unused balance on the retainer. A refund has been made, but the retainer was never placed in the firm's trust account.

**CHARLES M. MOONEY, JR, Bar No. 83131**, of Jonesboro, Arkansas, was cautioned and ordered to pay a \$817.85 refund to Barbara Schwartz for violation of Rules 1.3, 1.4(a), 1.4(b) and 1.15(b), by Consent Findings & Order filed June 23, 2008, in Case No. 2007-078. Mooney represented Schwartz through the decree of divorce. One of the issues her share of her ex-husband's military retirement. Years later when Ms. Schwartz' husband was retiring from the military, she learned that there would have to be a clarification of the Decree for her to receive these benefits. Mooney who advised that he would help her but then did not do so. Schwartz called him on numerous occasions but received few return calls and no substantive information. Mooney also held funds in escrow for Schwartz and did not promptly provide an accounting of those funds in spite of her requests. Schwartz hired other counsel who obtained the needed modification to the divorce decree.

**THURMAN BROWN PATTERSON, Bar No. 84118**, formerly of Hot Springs, Arkansas, was cautioned, for violation of Rule 1.3, by Committee Consent Findings & Order filed April 18, 2008, on a Complaint filed by Gerald Lee in Case No. 2007-090. Lee was married to Melody Lee, who owned an apartment home that burned in 2000. She contacted Patterson to assist her in pursuing the insurance claim with Lloyd's of London. Patterson did not do so prior to Mrs. Lee's death. After Mr. Lee was named personal representative of the estate of Mrs. Lee, he hired Patterson to pursue the claim, which Patterson failed to do. The statute of limitation expired. Patterson's insurance company provided a monetary settlement to Mr. Lee.

**THURMAN A. RAGAR, JR., Bar No. 70009**, of Van Buren was cautioned and fined \$500 for violation of Rules 1.1 and 8.4(d) by Committee Findings & Order filed November 25, 2008, on a Per Curiam Order Complaint in Case No. CPC 2008-062. On December 4, 2007, the Crawford County Circuit Court filed its Judgment and Commitment order that sentenced William D. Morrison as a habitual offender to 240 months' imprisonment for failure to register as a sex offender. An Amended Judgment and Commitment Order was entered on December 13, 2007. Pursuant to Rule 5 of the Arkansas Rules of Appellate Procedure-Civil, the record was due to be filed within ninety (90) days from the filing of the first Notice of Appeal unless the time was extended by circuit court order. The notice of appeal was timely filed on December 5, 2007. A request for an extension of time was made, and the circuit court extended the time for filing the record. The Supreme Court Clerk declined to lodge the record due to a failure to comply with Ark. R. App. P.-Civ. 5(b)(1)(C). That rule requires that all parties have the opportunity to be heard on the motion for extension of time, either at a hearing or by responding in writing. On May 13, 2008, Mr. Ragar filed a motion for rule on clerk. The Arkansas Supreme Court granted Mr. Ragar's motion for rule on clerk and forwarded to the Committee on Professional Conduct a copy of its opinion. The Court subsequently granted Mr. Ragar's motion, as public defender, to withdraw as attorney in the direct appeal.

**BRYAN J. REIS, Bar No. 79239**, of Hot Springs, Arkansas, was cautioned, in CPC 2007-081, by Committee Findings & Order filed February 20, 2008, on a complaint by Clifford Block, Esq. for violation of Rules 1.7(a)(2) and 1.9(a). On April 4, 2007, the Garland County Circuit Court granted plaintiff's Motion to Disqualify Mr. Reis, defendant's counsel of record in Case No. CV 2006-841-III, *Marian N. Howell, Nathan B. Howell, and Bear's Pizza Co., Inc. v. F. Lee Beasley III and Deborah Hunter*. The basis of the court's disqualification was Mr. Reis's joint representation of Nathan Howell

and F. Lee Beasley in matters the court deemed the same or substantially related transactions to issues in the litigation.

Likewise in Case No. CV 2006-852-III, *F. Lee Beasley v. Marion N. Howell and Nathan B. Howell*, the Garland County Circuit Court granted defendant's Motion to Disqualify Reis as plaintiff's counsel of record. The court found that (1) Reis had previously engaged in joint representation of Nathan Howell and Beasley in the same or substantially related transactions at issue in the litigation, (2) that the men now had materially adverse interests, and (3) that, although there was no impropriety, the disqualification was necessary to avoid the appearance of such. Prior to a ruling in either of these cases, the court invited counsel to submit citations of any supporting case law. In his letter brief to the court, Reis denied that an attorney-client relationship ever existed as between Reis and Mr. Howell given that Howell hired other counsel to represent him. However, Reis testified at the hearing on March 13, 2007, that he at one time engaged in joint representation of Mr. Howell and Mr. Beasley.

**ALVIN L. SIMES, Bar No. 89188**, of Forrest City, Arkansas, was cautioned and fined \$500.00 by Committee Findings & Order filed June 18, 2008, on a Per Curiam Order Complaint in CPC Case No. 2007-116, for violation of Rules 1.3, 3.4(c), and 8.4(d). Simes represented Mattie Allison in a personal injury matter in which State Farm Insurance was granted summary judgment. The record on appeal was due to be filed within 90 days of the filing of the notice of appeal, unless the time was extended. Simes filed a petition to extend the filing time, which the circuit court granted, extending his filing date to April 24, 2007. The transcript was tendered to the Supreme Court Clerk on April 23, 2007. The Clerk found that the January 24, 2007, Order did not meet the requirements of Rule 5(b)(1)(C), requiring all parties to have an opportunity to be heard on the motion to extend time, either at a hearing or by responding in writing. The Clerk informed Simes that he needed to file a Motion for Rule on the Clerk. State Farm filed a Motion to Dismiss Appeal. Simes filed a Motion for Enlargement of Time with the Supreme Court, stating that, as a solo practitioner, he needed an additional thirty days to respond due to his demanding law practice. Simes' motion was denied, and State Farm's Motion to Dismiss was granted, leaving Allison without legal remedies.

**FREDERICK S. SPENCER, Bar No. 75120**, of Mountain Home was cautioned and fined \$250 for violation of Rules 1.3, 3.3(a), and 8.4(d), by Committee Consent Findings & Order filed October 21, 2008, on a Per Curiam Order Complaint in Case No. CPC 2008-030. On November 26, 2007, the Arkansas Supreme Court granted Mr. Spencer a seven-day extension of time in which to file the brief in Case No. 07-1078. Mr. Spencer subsequently received a thirty-day extension requiring tender of his appellate brief on or before January 2, 2008. Unable to meet the January 2, 2008, deadline, Mr. Spencer filed another request for extension of time, but it was untimely. On January 7, 2008, Mr. Spencer filed an "Unopposed Motion to File Belated Brief," in which he requested a fourteen-day extension to file his brief. Mr. Spencer indicated in his motion that it was unopposed, and the Court granted the Motion to file Belated Brief on January 24, 2008. On January 29, 2008, appellees filed a joint motion requesting reconsideration of the Court's decision to grant the Motion to File Belated Brief, asserting not only that the motion was opposed but also that they had not been served with the motion as shown in Mr. Spencer's certificate of service. Mr. Spencer did not respond to the joint motion until after the Court made a specific request for him to do so. In his response, Mr. Spencer stated that his paralegal sent the

Motion for Belated Brief by postal mail and that appellees had been asked if they had any objection to the extension. As pointed out by the Court in its Per Curiam opinion of February 28, 2008, Mr. Spencer specifically set forth in his response that, immediately upon appellees' approval of the extension,

Appellant filed the Motion to file Belated Brief and assumed that since Appellees had no objection to the extension of time to file the Brief, they would have no objection to the filing of the Appellant's Motion to File Belated Brief since Appellant was not asking for any more time than had been discussed with the Appellees, and was only changing the pleadings from a Motion for Extension of time to a Motion to File Belated Brief because of the delay caused by the United Parcel Service[.]

After noting that a motion for extension of time is a different pleading than a Motion for Belated Brief and that the appellees were never contacted regarding the Motion for Belated Brief, the Court determined that Mr. Spencer misrepresented to the Court that appellees were unopposed to the motion. Because its reliance on Mr. Spencer's pleadings was misplaced, the Court held that its prior decision to grant the unopposed motion was erroneous, and it forwarded a copy of the opinion to the Committee on Professional Conduct. On March 17, 2008, Mr. Spencer filed a Motion to Reconsider. Separate appellee Zurich filed a response to the motion on March 21, 2008, and appellee Sanders filed its response on March 25, 2008. The court denied Mr. Spencer's reconsideration motion on April 10, 2008, and again referred the matter to the Office of Professional Conduct based on the misrepresentation of the facts.

**DONALD E. WARREN, Bar No. 99007**, of Pine Bluff, Arkansas, was cautioned by Committee Findings & Order filed May 27, 2008, on a Per Curiam Order Complaint in Case No. CPC 2007-128 for violation of Rules 1.3 and 8.4(d). For Virgil Williams, Warren appealed an award of \$20,000 in a negligence suit. Warren's notice of appeal listed the case number of a different case in which Williams had filed a voluntary non-suit. After realizing his error, Warren filed an Amended Notice of Appeal listing the correct case number. No extension was granted. As the *first* notice of appeal was filed on June 11, 2007, the record was to be filed by September 9, 2007. Warren tendered the record on September 17, 2007, and filed a Motion for Rule on the Clerk. The Supreme Court denied the Motion ending Williams' appeal.

**JIMMIE L. WILSON, Bar No. 73128**, of West Helena, Arkansas, was cautioned and fined \$750.00 by Committee Findings & Order filed April 1, 2008, on a Per Curiam Order Complaint in Committee Case No. CPC 2007-101, for violation of Rules 1.1, 1.3, and 8.4(d). Wilson represented the McCoys in a civil appeal, No. 07-807, from a \$87,603.57 judgment against them for wrongful cutting of timber. Wilson tendered the record late, his motion for rule on the clerk was denied, and his clients lost their right to an appeal.

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