

*Final actions from January 1, 2007, to March 15, 2007, by the Committee on Professional Conduct. Summaries prepared by the Office of Professional Conduct. Full text documents are available on-line at*

*<http://courts.state.ar.us/courts/cpc.html>. [Note: "Model" Rules refers to the Rules of Professional Conduct as they existed in Arkansas prior to May 1, 2005. "Arkansas" Rules refers to the Rules as they exist in Arkansas from May 1, 2005.]*

**DISBARMENT:**

DARRELL F. BROWN, SR., Bar No. 72012, of Little Rock, Arkansas, was disbarred and his name removed from the registry of attorneys licensed by the State of Arkansas by Arkansas Supreme Court Per Curiam Order issued March 8, 2007, in No. 05-592. The Per Curiam recites that, in the disbarment proceeding, Special Judge John Cole made a report to the Court with his findings of fact and a recommendation for the sanction of disbarment. Mr. Brown did not file a brief challenging the report, which was accepted by the Court and a final order of disbarment was granted. In part, Judge Cole found numerous instances of "serious misconduct" including matters where Mr. Brown converted or misappropriated funds from several clients. His acts have resulted in several awards to date from the Supreme Court Client Security Fund to those former clients.

**SURRENDER OF LICENSE:**

CHARLIE LEE RUDD, Bar No. 89087, formerly of Hot Springs, Arkansas, had the surrender of his Arkansas law license accepted by the Arkansas Supreme Court in a Per Curiam Order issued February 22, 2007, in lieu of Mr. Rudd going forward in disbarment proceedings arising from Committee Case No. CPC 2006-153, based on Mr. Rudd's guilty plea on October 31, 2006, to a Class C felony criminal controlled-substance charge in Garland County Circuit No. CR-2005-555-4. A felony conviction is a basis for a violation of Rule 8.4(b) and is a "serious crime" and "serious misconduct"

under the Court's Procedures, warranting disbarment as the sanction.

**SUSPENSION:**

LARRY G. DUNKLIN, Bar No. 81051, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) years by the Opinion of the Arkansas Supreme Court in No. 04-661 filed January 18, 2007, in a disbarment proceeding filed for the Committee on June 9, 2004, on a complaint filed by First Magnus Financial Corporation of Arizona, in Committee Case No. CPC 2005-140, for violation of Model Rules 1.15(a), 3.4(c) and 8.4(c). In June 1999, Mr. Dunklin agreed to act as closing agent for a real estate transaction for property located in Tulsa, Oklahoma. The parties to the loan were Mark Kimbrough and First Magnus Financial Corporation. The mortgage and promissory note were signed on June 17, 1999, and Dunklin informed First Magnus that the documents had been executed. First Magnus then funded the loan by wiring \$80,001.51 to Dunklin's IOLTA account. A deed transferring the Tulsa property to Mark Kimbrough was filed with the Tulsa County Clerk on September 1, 1999. The Kimbrough mortgage was not filed with the Clerk until February 18, 2000. During the intervening period, two other mortgages and promissory notes were filed with the Clerk involving the same property. First Magnus discovered that their mortgage and promissory note had not been timely filed and that it had lost priority to the other loans. Kimbrough defaulted on the note. First Magnus filed suit against Dunklin in Pulaski County Circuit Court for breach of fiduciary duties. Dunklin failed to respond to the lawsuit and a default judgment was entered against him for \$96,727.09, plus costs, post-judgment interest, and attorneys' fees. The Arkansas Court of Appeals affirmed the default judgment in October 2002. First Magnus deposed Dunklin to discover assets. During the deposition, Dunklin was asked whether he knew or had previously represented Kimbrough. Dunklin admitted that he knew Kimbrough but denied represent-

ing him. Dunklin did represent Kimbrough in a 1992 criminal case. The opening balance for Dunklin's trust account on June 1, 1999, was -\$23.28. Following the receipt of the loan proceeds from First Magnus, Dunklin wrote checks from his trust account for "overhead," "cash," and for payment on a personal car loan. The closing balance for Dunklin's trust account on July 31, 1999, was -\$168.54.

HORACE A. WALKER, Bar No. 82169, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) months by Committee Findings & Order filed January 10, 2007, on a complaint filed by Gary Coulter of Mineral Springs, Arkansas, in Case No. CPC 2006-101, for violation of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), and 8.4(d). Mr. Coulter suffered a substantial back injury in a collision with a motor home on September 26, 2001, an event in which he was not at fault. By October 2001, he had hired Horace Walker to represent him, and on that date, Mr. Walker notified State Farm Insurance of his representation. Mr. Walker gathered medical records and was in frequent correspondence with State Farm into mid-2003. In August 2003, State Farm wrote Mr. Walker with a \$20,000 settlement offer. Thereafter, Mr. Walker failed to settle the claim or to timely file suit to protect his client. Mr. Coulter had difficulty contacting Mr. Walker after mid-2003 and obtaining information about his claim. In September 2005, Mr. Walker sent Mr. Coulter a copy of his file. On September 26, 2005, Mr. Coulter filed a pro se Complaint in Miller County Circuit Court (No. CV-2005-353-2) against State Farm and the other driver, trying to salvage his claim. He failed, as the court granted a motion to dismiss his suit with prejudice in December 2005. Mr. Walker's failure to act in a timely and proper manner for his client cost Mr. Coulter any chance of settlement or recovery for injuries which were serious enough to cause his employer to retire him on disability in mid-2003.

WOODSON D. WALKER, Bar No. 76135, of Little Rock, Arkansas, had his

privilege to practice law suspended for three (3) years on January 4, 2007, when the Arkansas Supreme Court, in No. 06-619, affirmed the Committee Findings & Order filed December 16, 2005, after a public hearing conducted on December 9, 2005, on a complaint filed by Reeshema Britt of Little Rock in Case No. CPC 2005-083, for violation of Model Rules 1.4(a), 1.4(b), 5.5(a), 8.4(c), and 8.4(d). Reeshema Britt of Little Rock was injured in a motor vehicle collision in February 2001, in which the other driver was at fault. She became Mr. Walker's client for this matter in August 2002. Mr. Walker's Arkansas law license was suspended in another matter effective April 21, 2003, for one year, and his license has never been reinstated. By June 11, 2003, Mr. Walker had received a settlement offer of \$5,500, which was declined by Ms. Britt, as shown by Mr. Walker's letter to her of that date on the letterhead of Larry Dunklin, his former partner or associate attorney in the firm of Walker & Dunklin. Ms. Britt thereafter had substantial difficulty obtaining information from Mr. Walker or Mr. Dunklin about her matter. In April 2004, after the expiration of the statute of limitation for her claim, she learned no lawsuit had been filed in her claim. She consulted with attorney Luther Sutter. She then was able to meet with Mr. Walker on May 3, 2004. He told her he would try to get the \$5,500 offer reinstated and her medical bills taken care of in some fashion, with him to receive a one-third fee of any recovery. She declined and hired Mr. Sutter to pursue relief. In August 2004, Mr. Sutter filed suit for legal malpractice against Mr. Dunklin and Mr. Walker in the Britt matter. On April 14, 2005, judgment for \$75,000 was awarded against Mr. Dunklin and Mr. Walker in favor of Ms. Britt on her legal malpractice claim.

#### REPRIMAND:

BRUCE J. BENNETT, Bar No. 92140, of Bentonville, Arkansas, was reprimanded by Committee Findings & Order filed January 17, 2007, on a complaint filed by Ms. Rosa Elena Cortez of Rogers, Arkansas, in Case

No. CPC 2006-091, for violation of Model Rules 1.2(a), 1.3, and 8.4(d). Ms. Cortez, who speaks very little English, hired Bennett in November of 2004 to appeal an adverse decision of the Arkansas Workers' Compensation Commission. Her daughter, Nathaly, occasionally accompanied her to visits with Bennett and served as a translator. Ms. Cortez obtained the file from her previous attorney for Bennett's review. When he received the file, Bennett realized that there was limited time in which to file the notice of appeal. Although he drafted the notice of appeal, Bennett placed it into his Cortez office file, but he did not file it. Mistakenly believing that he had filed the notice of appeal, Bennett informed Nathaly that he had filed the appeal. It was later determined that Bennett had not filed the appeal.

ROBERT L. DEPPER, JR., Bar No. 81046, of El Dorado, Arkansas, was reprimanded by Committee Consent Findings & Order filed March 16, 2007, on a Complaint filed by Ruby Lee in Case No. 2006-110, for violations of Rules 1.1, 1.8(h)(1), 1.8(h)(2) and 8.4(d). Mr. Depper was also fined \$500 and ordered to pay restitution to Ms. Lee in the amount of \$8500 with credit for most of that the amount he had already paid voluntarily to her. Ms. Lee hired Mr. Depper during January 2003 to pursue a civil matter on her behalf in connection with a personal injury matter. Ms. Lee had been involved in a car accident in January 2003. Mr. Depper acted diligently for the first year he had the matter. However, the complaint in the cause of action was not filed prior to the running of the statute of limitation, which caused Ms. Lee's claim to be barred. Mr. Depper was not thorough enough in his representation of Ms. Lee to either settle the matter or file a lawsuit prior to the expiration of the statute of limitation. Upon learning of the error, Mr. Depper contacted Ms. Lee and negotiated with Ms. Lee for payment of money which they believed she would have netted from a settlement of her personal injury claims. Ms. Lee accepted the offer and was paid what she would have netted in the settlement proceeds. However,

Mr. Depper did not comply with Rule 1.8(h)(1) and Rule 1.8(h)(2) of the Rules of Professional Conduct, which require that before settling a claim for personal liability to a client, a lawyer is to inform the client in writing of the right and advisability of consulting with independent counsel before settling the claim. The Release which Mr. Depper prepared releasing him from any liability with regard to the handling of Ms. Lee's personal injury claim was signed by Ms. Lee when she was not represented by independent counsel.

WILLIAM GLEN HOGGARD, Bar No. 2000064, of North Little Rock, Arkansas, was reprimanded by Committee Findings & Order filed February 16, 2007, on a complaint developed from information in the appeal file in CA05-1056, Rex Black vs. Arkansas Department of Human Services, in Case No. CPC 2006-085, for violation of Arkansas Rules 1.2(a), 1.3, 3.4(c) and 8.4(d). Mr. Black wished to pursue an appeal of the lower court's decision in Pope County Circuit Court, and Mr. Hoggard entered his appearance in November 2005 specifically for that purpose. After obtaining multiple extensions of time to file a brief on Mr. Black's behalf, Mr. Hoggard did not tender a brief until after the appeal had been dismissed. Mr. Hoggard failed to respond to the Appellee's Second Motion to Dismiss, which was granted, ending the appeal.

JOHN E. JOPLIN, Bar No 86098, of Fort Smith, Arkansas, was reprimanded by Committee Findings & Order filed March 7, 2007, on a Complaint filed by William M. Blacker of Fort Smith in Case No. CPC 2006-139, for violations of Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 3.3(a)(1), 8.4(c), and 8.4(d). Mr. Blacker was represented by Mr. Joplin, the public defender, in a criminal matter. Mr. Joplin entered into a plea agreement on behalf of Mr. Blacker. Mr. Blacker was not clear on the terms of the plea agreement and was not present when the plea was actually entered on his behalf. Mr. Joplin did not provide Mr. Blacker with a copy of the plea agreement, and Mr. Blacker did not know when to start making

restitution payments. Mr. Joplin acknowledged that he did not send the Judgment or Amended Judgment to Mr. Blacker. Mr. Joplin asserted that the plea agreement present in the Judgment and Amended Judgment was not the actual agreement, because Mr. Blacker was not required to make restitution in the amount of \$30,000, but only a much smaller amount. There was no documentation to establish this and therefore Mr. Blacker would be subject to contempt of court if he failed to make restitution in the amount of \$30,000. Mr. Joplin was not thorough enough in his representation of Mr. Blacker to be aware that a plea of “nolo contendere” which he entered on behalf of Mr. Blacker is “required to be received only from the defendant himself in open court.” Mr. Joplin misrepresented the true facts to Judge Wilkinson when he signed off on a Judgment and an Amended Judgment which set out that his client, Mr. Blacker, was required to pay a total of \$30,000 in restitution. The actual agreement, according to Mr. Joplin, was for Mr. Blacker to pay only \$3,600 as restitution. Joplin also misrepresented the true facts to his client, Mr. Blacker, when he allowed Mr. Blacker to believe that he was entering into a Judgment in his criminal matter which would require Blacker to pay \$3,600 in restitution and then be eligible to have his record expunged.

MORRIS W. THOMPSON, Bar No. 80145, of Little Rock, Arkansas, was reprimanded by the Opinion of the Arkansas Supreme Court in No. 06-1069, *Morris W. Thompson vs. Supreme Court Committee on Professional Conduct*, delivered March 8, 2007, affirming the Committee Findings & Order filed March 7, 2007, on a complaint filed by Leon Gooden of Jonesboro in Case No. CPC 2005-067, which assessed a reprimand, a \$4,000 fine, and \$378 costs against Mr. Thompson for violation of Model Rules 3.1 and 4.4. The facts of the case were reported in *The Arkansas Lawyer* in Vol. 41, No. 3 (at page 38), Summer 2006.

On March 7, 2003, Thompson filed a

breach-of-contract lawsuit on behalf of a contractor against Mr. Gooden, seeking a money judgment for work performed on Gooden’s property located at 213 N. Allis in Jonesboro. On May 30, 2003, Thompson filed a lis pendens notice on eleven of Gooden’s separate properties. Gooden wanted to sell a property he owned at 216 N. Fisher but was unable to do so because of the lis pendens notice. Gooden contacted two local attorneys about the situation. The first attorney spoke to Thompson in December 2003. The second attorney wrote Thompson in January 2004. Both requested that Thompson promptly remove the lis pendens as to any properties except the one on which the work was actually performed. On February 11, 2004, Thompson filed a release on nine of the eleven properties listed in the lis pendens notice. Arkansas law is well settled that a lis pendens notice cannot be filed in a civil action seeking a money judgment. After being notified, Thompson took two months before making any attempt to correct his error.

#### CAUTION:

STEPHEN FISHER, Bar No. 91073, of Little Rock, Arkansas, was cautioned by Committee Findings and Order filed March 9, 2007, on a complaint by Chris and Janetta Porter of Little Rock, Arkansas, in Case No. CPC 2006-143, for violation of Arkansas Rules 1.1, 1.3, 3.2, 3.4(c), and 5.5(a). Mr. Fisher agreed to represent Chris and Janetta Porter in a federal lawsuit, where they alleged discrimination by their former employer. Mr. Fisher met with the Porters and accepted money for fees from them during a time when his license to practice law was suspended for failure to pay his annual license fee. Mr. Fisher failed to act diligently and promptly in his representation of the Porters. He did not serve the defendant in a prompt manner and sought two extensions of time in which to do so. During the course of his representation of the Porters, Mr. Fisher did not timely respond to the discovery served on him. He did not respond

to the Motion for Summary Judgment filed by the opposing counsel. He was not thorough enough in his representation of Chris and Janetta Porter to be certain that he sued all appropriate defendants in the matter. In addition, Mr. Fisher did not send the discovery requests to his clients until two weeks after the discovery requests were served on him by opposing counsel. Instead of expediting the litigation for the Porters, he requested extensions of time to serve the defendant, failed to timely respond to discovery, and requested extensions of time in order to respond to Motion for Summary Judgment filed by the opposing counsel in the matter but then filed no response. Although Mr. Fisher had been a lawyer for fourteen years in 2005, he failed to comply with Rule VII of the Rules Governing Admission to the Bar when he failed to pay his 2005 annual license fee by March 1, 2005 and failed to pay his 2006 annual license fee by March 1, 2006. Pursuant to Section 22 of the Procedures of the Arkansas Supreme Court Regulating the Professional Conduct of Attorneys at Law, he was not to be in an office where the practice of law is conducted during any period of suspension. His law license was suspended from March 2, 2005 through June 10, 2005, and from March 2, 2006 through July 13, 2006. During both periods of license suspension, he was practicing law in his office.

PAMELA FISK, Bar No. 2001179, of Texarkana, Arkansas, was cautioned by Committee Findings & Order filed January 12, 2007, on a complaint filed by Sherry A. Wise, in Case No. CPC 2006-138, for violation of Model Rules 1.1, 1.3, 1.4(a), and 8.4(d). In April 2003, Ms. Wise hired Ms. Fisk to represent her in a bankruptcy proceeding. At the time, Ms. Wise was involved in a civil lawsuit concerning her home and damages to it caused by defective roofing materials. She needed to save her home from foreclosure while the lawsuit was pending. Ms. Fisk advised Ms. Wise that she was not eligible for Chapter 13 relief and had to file pursuant to Chapter 7 of the bankruptcy code. Ms. Wise ended up losing her home after Ms. Fisk did not appear at a

hearing on the Motion for Relief from Stay by the mortgage company. The Committee found that Ms. Fisk did not notify Ms. Wise of the Order, nor did she send Ms. Wise a copy of the Order granting relief from stay when the same was entered five days after the hearing at which Ms. Fisk failed to appear. Ms. Wise lost her home and also lost a chance at a substantial amount of damages which she could have been seeking in her civil litigation. Honorable James Mixon, Bankruptcy Judge, in an October 2004 hearing, stated on the record in his Court that Ms. Wise should seek a lawyer to sue Ms. Fisk for malpractice because she “gummed the case up.” He also found that Ms. Wise had a valid defense to the Motion for Relief from Stay, had Ms. Fisk appeared to present it. Judge Mixon said on the record that he was going to pursue an Order to Show Cause on Ms. Fisk, but there is no record that one was pursued. Ms. Fisk was not thorough enough in her representation of Ms. Wise to determine that she was eligible for bankruptcy relief pursuant to Chapter 13 of the Bankruptcy Code, which would have benefitted her much more than the Chapter 7 filed on her behalf. Ms. Fisk did not advise Ms. Wise of the Order granting the relief from stay related to her home after the same was entered of record in February 2004.

LAWRENCE C. HONEYCUTT, Bar No. 78074, of Hot Springs, Arkansas, was cautioned by Committee Findings & Order filed February 12, 2007, on a self-referral arising out of his representation of Nickie Murray of Hot Springs in 2000-2004, in Case No. CPC 2005-158, for violation of Model Rules 1.3, 1.4(a) and 3.4(c). Mr. Honeycutt was employed by Vickie Murray to represent Nickie Murray, a minor, in relation to injuries sustained when a vehicle struck a corner of the Murray’s home causing Nickie to fall and suffer injuries. Mr. Honeycutt filed suit in Garland County Circuit Court on Ms. Murray’s behalf on March 24, 2000. The Garland County Circuit Court issued a pre-trial order requiring each party to file a pre-trial brief. Mr. Honeycutt admitted that the order was

entered. Mr. Honeycutt did not file a response to the pre-trial order. On June 1, 2001, the court’s case coordinator sent a letter to Mr. Honeycutt advising him that no response to the pre-trial order had been received and that, if no response were received by June 29, 2001, the Complaint would be dismissed for failure to comply with the court’s pre-trial order. Mr. Honeycutt did not file a response to the letter from the case coordinator. On August 2, 2001, an order was entered dismissing Ms. Murray’s lawsuit without prejudice for failure to comply with the pre-trial order. In November 2004, Mr. Honeycutt informed his client the case had been dismissed. He advised her that it was his reasonable belief that the lawsuit had little, if any, “value” based upon the circumstances of the alleged liability and the eventual insolvency of the tortfeasor. After discussing the matter with the Murrays and a friend of theirs, Mr. Honeycutt prepared a \$4,000 promissory note from him to the Murrays, with a payment of \$550.00 to be paid immediately and the balance to be paid in full by June 1, 2005. He only made three payments. Ms. Murray filed suit against Mr. Honeycutt in August 2005. Mr. Honeycutt self-reported the matter to the Committee on Professional Conduct and a formal complaint was filed. Ms. Murray and Mr. Honeycutt settled the matter out-of-court.

N. DONALD JENKINS, JR., Bar No. 94231, of Alma, Arkansas, was cautioned by Committee Findings & Order filed February 28, 2007, on a complaint by Jeffrey and Lori Sexton of Jonesboro, Arkansas, in Case No. CPC 2006-074, for violation of Arkansas Rule 1.4(a)(4). Jeffrey and Lori Sexton hired Mr. Jenkins to seek immediate removal of a tax lien garnishment from Lori’s paycheck. Mr. and Mrs. Sexton met with N. Donald Jenkins, Sr., the attorney’s father, in an office in Jonesboro. Mr. Jenkins Sr. requested a \$900 fee which he apparently agreed to allow to be paid out over time because of the Sexton’s financial situation. Mr. Jenkins Jr. did not take action on behalf of the Complainants. Since Mr. and Mrs. Sexton hired the Jenkins Law

Firm to assist them with the tax lien garnishment in May 2005, Mr. Jenkins Jr. failed to keep them informed of the efforts, if any, he had undertaken on their behalf. He also failed to return the messages from the Sextons seeking information about the legal matter entrusted to him.

JACK R. KEARNEY, Bar No. 77194, of Little Rock, Arkansas, was cautioned by Committee Findings & Order filed February 27, 2007, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of Leon Harden v. State, No. CR06-966, in Case No. CPC 2006-131, for violation of Arkansas Rules 1.1, 1.3, and 8.4(d). Mr. Kearney represented Leon Harden, III, at trial. Following the conviction, Mr. Kearney filed the Notice of Appeal, and sought to be relieved by the trial court. The trial judge denied the motion, holding that he had no jurisdiction to grant the request because the Notice of Appeal had already been filed. Concerned about the appeal being pursued, the trial judge filed a partial record for Mr. Harden in order for the Appellate Court to hear Harden’s Motion to Be Appointed a New Attorney. After receiving the record, the Clerk’s office put Mr. Kearney on notice that he had to file a Motion for Rule on the Clerk because of an untimely Order extending the time for filing the record on appeal. Mr. Kearney filed the Motion but did not address the Order, stating that the Motion for Extension of Time was timely. The Arkansas Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Committee.

WALTER CRAIG LAMBERT, Bar No. 87100, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed January 17, 2007, on a complaint based on information developed from the court file in No. CR04-615, German Marroqui vs. State of Arkansas, in Case No. CPC 2006-160, for violation of Model Rule 1.3. Mr. Lambert represented German Marroquin on appeal from a denial of a Rule 37 Petition by the Benton County

Circuit Court. A timely Notice of Appeal was filed. Pursuant to Rule 5 of the Rules of Appellate Procedure—Civil, the record shall be filed with the clerk of the Arkansas Supreme Court within ninety days of the filing of the first notice of appeal. As the Notice of Appeal was filed on February 13, 2004, the record was due to be filed on May 13, 2004. The record was not tendered until May 21, 2004. On May 27, 2004, Mr. Lambert filed a Motion for Rule on the Clerk. The Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Committee.

DENNIS R. MOLOCK, Bar No. 79211, of Stuttgart, Arkansas, was cautioned by Committee Findings & Order filed January 31, 2007, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of *Steve Hill v. State*, No. CR-06-686, in Case No. CPC 2006-1116, for violation of Arkansas Rules 1.1, 1.3, and 8.4(d). Mr. Molock filed a timely Notice of Appeal for his client to both the original Judgment and Commitment Order and to the Amended Judgment and Commitment Order. Thereafter, Mr. Molock filed a Motion for Extension of Time to File the Record on Appeal. The Motion was filed within ninety (90) days of the second Notice of Appeal but not the first as it should have been. As a result the Order granting the Motion was also untimely. The Clerk would not file the record on appeal, only tendered it. Mr. Molock then filed a Motion for Rule on the Clerk, accepting responsibility for the late filing. The Per Curiam granted the Motion for Rule on the Clerk and referred him to the Committee.

EUGENE C. SAYRE, Bar No. 75111, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed March 16, 2007, on a complaint filed by Richard Brown in Case No. CPC 2006-154, for violation of Model Rules 1.3, 1.4(a), and 8.4(d). Mr. Brown hired Mr. Sayre during March 2003 to represent him in a lawsuit against a private individual and the Arkansas Highway Transportation Department

(AHTD), related to a portion of State Highway which had been abandoned and then destroyed by the private individual. The AHTD was not claiming any responsibility to the road. Mr. Brown had no access to his property and wanted the Highway Department to rebuild the road. Mr. Sayre filed a lawsuit on Mr. Brown's behalf. The Defendants filed a Motion to Dismiss. Mr. Sayre did not respond to the Motion. An Order dismissing the AHTD, its Director and its Commissioners was entered in October 2004. Mr. Sayre did not notify Mr. Brown of the dismissal. Mr. Brown learned of the dismissal from another attorney. In his consent to discipline proposal, Mr. Sayre admitted that he violated Rules 1.3, 1.4(a) and 8.4(d) of the Model Rules of Professional Conduct as set forth in the disciplinary complaint. Mr. Sayre explained that over the course of the time period from 2000 through 2005, he and Mr. Brown developed not only a professional attorney-client relationship but also a personal friendship. Mr. Sayre had many other events which took place in his professional and personal life in September and October of 2003, the months which followed the filing of the Motions to Dismiss. He was involved in very contentious litigation in Pulaski County. Then in October 2003, Mr. Sayre had to have four-way bypass surgery and was unable to return to normal working hours for approximately three months thereafter. By the time he returned to his regular practice, the time within which to respond timely to the Motion to Dismiss had long since passed. Mr. Sayre candidly admits that he did not ask for an opportunity to file a belated response. Mr. Sayre also explained that during 2004 and 2005, he was generally in contact with Mr. Brown.

JOHN SKYLAR TAPP, Bar No. 76123, of Hot Springs, Arkansas, was cautioned and fined \$2,000 by Committee Findings & Order filed March 7, 2007, on a Per Curiam Order referral by the Arkansas Supreme Court in the appellate case of *State of Arkansas v. Alan D. Williams*, No. CR-03-252, in Case No. CPC 2006-102, for violation of Model Rules 1.3 and 8.4(d). The

sanction was enhanced by the Panel's consideration of Mr. Tapp's prior disciplinary record. Mr. Tapp represented Alan Williams from October 28, 2004, until May 11, 2005. Williams entered a conditional plea of guilty, on a vehicle search issue, in Miller County Circuit Court, pursuant to Rule 24.3 of the Arkansas Rules of Criminal Procedure. After a hearing on November 1, 2004, the trial court denied the Motion to Suppress. The order denying the motion was signed on November 1, 2004, but not filed of record with the Miller County Circuit Clerk until November 29, 2004. Mr. Tapp filed a notice of appeal from the Order on Conditional Plea on December 2, 2004. The actual judgment in the case was not entered until December 17, 2004. Mr. Tapp did not file a notice of appeal from that judgment. Mr. Tapp stated that he was employed by Mr. Williams in October 2004, and was never paid. Mr. Tapp stated that following the hearing on the Motion to Suppress, he repeatedly called Mr. Williams asking whether Mr. Williams wanted him to represent him in an appeal and whether Mr. Williams was going to pay as he had agreed to do. Mr. Tapp stated that he went ahead and filed a Notice of Appeal from the Order of Conditional Plea on December 2, 2004, despite not receiving payment. As he did not receive a response from Mr. Williams, Mr. Tapp filed a Motion to Be Relieved as Counsel with the Arkansas Court of Appeals. On May 11, 2005, the Court of Appeals granted Mr. Tapp's motion. Mr. Tapp stated that he believed he had no further obligations on this legal matter. Mr. Williams filed a pro se Motion for Belated Appeal. In its Per Curiam Order of June 15, 2006, the Arkansas Supreme Court stated that prior case law made it clear that an appeal must be taken from the judgment and not from an order denying a motion to suppress. As no notice of appeal was entered following the judgment entered on December 17, 2004, there was good reason for granting Mr. Williams' Motion for Belated Appeal.

ERNEST WAYNE WITT, Bar No. 76142, of Ozark, Arkansas, was cautioned by

Committee Consent Findings & Order filed January 8, 2007, on a complaint filed by William L. “Bud” Snow in Case No. CPC 2006-142, for violation of Arkansas Rule 1.1. Mr. Snow employed Mr. Witt to represent him in Logan County District Court in a civil matter against Joel Bankster. After the lawsuit was filed in District Court, there was an altercation between Mr. Bankster and Mr. Snow in December 1999 in which Mr. Snow fell and hit his head on a rock. A hearing was held in the first legal matter. The court found in Mr. Snow’s favor and against Mr. Bankster in the amount of \$500.00, costs of \$40.95, and attorney fees of \$50.00. The Judgment was filed on July 3, 2000, and Mr. Bankster thereafter filed a Notice of Appeal to the Logan County Circuit Court. Mr. Witt then filed an Amended Complaint in the appeal before the Logan County Circuit Court, adding a second count of civil battery for the injuries that occurred on December 2, 1999. This Count II was not part of the case in district court. Mr. Bankster and his attorney filed a Motion to Dismiss or Strike Count II, stating the circuit court did not have subject matter jurisdiction as to the battery count as it had not been heard in district court. Mr. Witt filed a response and stated that the appeal from District Court to Circuit Court created a de novo trial and the pleadings could be amended by either party at that time. Mr. Bankster filed a Motion for Summary Judgment reasserting that the circuit court lacked subject matter jurisdiction. Mr. Witt responded to the Motion for Summary Judgment with the same arguments. The circuit court dismissed Count II of the Amended Complaint for lack of subject matter jurisdiction. The matter was remanded to district court. Despite assurances to Mr. Snow that his matter would be re-filed in district court, the matter was not re-filed and the statute of limitations on the battery expired. ■