

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL B

IN RE: MARVA JOYCE DAVIS  
Arkansas Bar ID # 83046  
CPC Docket No. 2005-170

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Marva Joyce Davis of Little Rock, Pulaski County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Renee Crater of MCH Physical Therapy Clinic (MCH) in Little Rock. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002).

Ms. Davis represented three personal injury clients, Betty Phillips, LaTasha Bryant, and Ronetha Taylor, who received treatment from Renee Crater d/b/a MCH Physical Therapy Clinic of Little Rock. Ms. Davis settled Betty Phillips' legal claim for \$2,500.00 on or around October 17, 2003, withheld \$566.55 from her settlement to pay her account at MCH, and thereafter failed to pay these funds to MCH. She settled LaTasha Bryant's legal claim for \$3,500.00 on a date not readily determinable from the settlement sheet, withheld \$1,309.50 from her settlement to pay her account at MCH, and thereafter failed to pay these funds to MCH. She settled Ronetha Taylor's legal claim for \$9,000.00 on or around February 17, 2004, withheld \$2,980.00 from her settlement to pay her account at MCH, and thereafter failed to pay these funds to MCH. She also withheld \$1,300.00 from Ms. Taylor's settlement to repay on loan of that amount Ms. Davis had previously made to her, an employee of her law office at the time, an advance of funds to a client not permitted by the Rules of Professional Conduct. MCH was not notified by Ms. Davis when she received the settlement funds in these three cases, funds in which MCH had an interest. Her trust account balance fell below the \$4,765.55 (\$566.55 + \$1,219.00 + \$2,980.00) required to be held there by her after she received the funds from the last of these three settlements. Her trust account balance fell to \$151.06 on April 15, 2005, and to \$99.66 on June 28, 2005.

MCH filed this complaint in July 2005 and Ms. Davis was thereafter informally notified of its existence. On December 22, 2005, she paid MCH \$566.55 for the Betty Phillips account. On February 6, 2006, she paid \$4,197.50 to MCH in full payment of the Bryant and Taylor accounts.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Ms. Davis' conduct violated Model Rule 1.1, in that she failed to provide to her clients Betty Phillips, LaTasha Bryant and Ronetha Taylor the thoroughness reasonably necessary for their representations by failing to deliver to MCH Physical Therapy Clinic funds she withheld from each client's settlement for that specific purpose. Model Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Ms. Davis' conduct violated Model Rule 1.2(a), in that it was the objective and instruction of her client Betty Phillips that Davis deliver the \$566.55 she withheld from the Phillips settlement to MCH Physical Therapy Clinic to pay her account, and Davis failed to abide by that client decision when she failed to deliver the funds to MCH. It was the objective and instruction of her client LaTasha Bryant that Davis deliver the \$1,219.00 she withheld from Bryant's settlement to MCH Physical Therapy Clinic to pay her account, and Davis failed to abide by that client decision when she failed to deliver the funds to MCH. It was the objective and instruction of her client Ronetha Taylor that Davis deliver the \$2,980.00 she withheld from her settlement to MCH Physical Therapy Clinic to pay her account, and Davis failed to abide by that client decision when she failed to deliver the funds to MCH. Model Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter.

C. Davis' conduct violated Model Rule 1.8(e), in that while representing Ronetha Taylor, who was not an indigent client, in a personal injury matter in which litigation was contemplated if the matter could not be settled, Davis advanced or loaned Taylor \$1,300.00 not for the purpose of advancing court costs of expenses of litigation, which was prohibited financial assistance. Model Rule 1.8(e) provides that a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that: (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

D. Davis' conduct violated Model Rule 1.15(a), in that she failed to hold in her trust account \$566.55 entrusted to her by client Betty Phillips to pay Phillips' account at MCH Physical Therapy Clinic. Davis failed to hold in her trust account \$1,219.00 entrusted to her by client LaTasha Bryant to pay Bryant's account at MCH Physical Therapy Clinic. Davis failed to hold in her trust account \$2,980.00 entrusted to her by client Ronetha Taylor to pay Taylor's account at MCH Physical Therapy Clinic. Davis improperly maintained her trust account by allowing the overall balance to fall to \$99.66 on June 28, 2005, when at least \$4,765.55 should have been maintained there, representing the settlement funds she had previously withheld from the settlements for Betty Phillips, LaTasha Bryant and Ronetha Taylor to directly pay their accounts at MCH. Model Rule 1.15(a) requires that a lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of a client shall be deposited and maintained in one or more identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.

E. Davis' conduct violated Model Rule 1.15(b), in that she failed to promptly notify MCH Physical Therapy Clinic of her receipt of settlement funds of Betty Phillips, funds in which MCH had an interest. Davis failed to promptly notify MCH Physical Therapy Clinic of her receipt of settlement funds of LaTasha Bryant, funds in which MCH had an interest. Davis failed to promptly notify MCH Physical Therapy Clinic of her receipt of settlement funds of Ronetha Taylor, funds in which MCH had an interest. Davis failed to promptly deliver to MCH Physical Therapy Clinic settlement funds of Betty Phillips, funds in which MCH had an interest. Davis failed to promptly deliver to MCH Physical Therapy Clinic settlement funds of LaTasha Bryant, funds in which MCH had an interest. Davis failed to promptly deliver to MCH Physical Therapy Clinic settlement funds of Ronetha Taylor, funds in which MCH had an interest. Model Rule 1.15(b) requires that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

F. Davis's conduct violated Model Rule 8.4(c), in that she engaged in conduct involving misrepresentation by withholding \$566.55 from Betty Phillips' settlement on October 17, 2003, with the representation Davis would pay these funds on Phillips' account at MCH.Physical Therapy Clinic and Davis failed to so deliver the funds until served with the Complaint. Davis engaged in conduct involving misrepresentation by withholding \$1,309.00 from LaTasha Bryant's settlement with the representation Davis would pay these funds on Bryant's account at MCH.Physical Therapy Clinic and Davis failed to so deliver the funds until served with the Complaint. Davis engaged in conduct involving misrepresentation by withholding \$2,980.00 from Ronetha Taylor's settlement on February 17, 2004, with the representation Davis would pay these funds on Taylor's account at MCH.Physical Therapy Clinic and Davis failed to so deliver the funds until served with the Complaint. Davis engaged in conduct involving dishonesty and deceit by withdrawing funds from your trust account belonging to either MCH.Physical Therapy Clinic or to Betty Phillips, LaTasha Bryant and Ronetha Taylor and using these funds for some purpose or purposes for which they were not intended.

Davis engaged in conduct involving dishonesty and deceit when she allowed her trust account overall balance to fall to \$99.66 on June 28, 2005, when at least \$4,765.55 should have been maintained there, representing the settlement funds she had previously withheld from the settlements for Betty Phillips, LaTasha Bryant and Ronetha Taylor to directly pay their accounts at MCH.

Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, in accordance with the consent to discipline presented by Ms. Davis and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Marva Joyce Davis, Arkansas Bar No. 83046, be, and hereby is, reprimanded for her conduct in this matter, and ordered to pay \$50.00 Committee case costs.

The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE  
ON PROFESSIONAL CONDUCT - PANEL B

By \_\_\_\_\_

H. T. Moore, Chairperson, Panel B

Date \_\_\_\_\_