



Arkansas Supreme Court Committee on Professional Conduct

2020 Annual Report

Office of Professional Conduct

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<https://www.arcourts.gov/professional-conduct>

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. The Committee again submitted major proposed revisions of the Procedures to the Court on December 15, 2010, which were adopted by the Court in its Per Curiam issued and effective May 26, 2011, found at 2011 Ark. 242.

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 409-533 of the 2016 Court Rules, Volume 2, of the Arkansas Code. The attorney discipline Procedures implementing these Rules are in the same Volume 2, at pages 357-407. On May 26, 2011, the Supreme Court adopted and made effective significant revisions to the Procedures, in a per curiam found at 2011 Ark. 242

Mission: The purpose of lawyer discipline and disability proceedings is to maintain appropriate standards of professional conduct in order to protect the public and the administration of justice from lawyers who have demonstrated by their conduct that they are unable or are likely to be unable to properly discharge their professional duties. Standard 1.1 of the ABA's 1979 Standards for Lawyer Discipline and Disability Proceedings.

II. Structure

1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2020, the Committee continued to operate in the new model of four Panels authorized by the Supreme Court as of January 1, 2002, designated Panels A, B, C, and D (Reserve). Each panel is composed of seven members appointed by the Arkansas Supreme Court. Five members 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 Court from the State at large. Panel membership in 2020 was as follows:

Panel A: T. Benton Smith, Jr., Jonesboro, Attorney, First Congressional District
Lisa C. Ballard, North Little Rock, Attorney, Second Congressional District
Mark L. Martin, Fayetteville, Attorney, Third Congressional District
Michael W. Boyd, Magnolia, Attorney, Fourth Congressional District
Erin E. Cassinelli, Little Rock, Attorney at Large
Paul W. Hoggard, Piggott, Non-attorney at Large
Tanya R. Owen, Fayetteville, Non-attorney at Large

Panel B: Mark W. Rees, Jonesboro, Attorney, First Congressional District
David P. Glover, Little Rock, Attorney, Second Congressional District
James S. Dunham, Russellville, Attorney, Third Congressional District
Stephen Crane, Magnolia, Attorney, Fourth Congressional District
Timothy F. Snively, Fayetteville, Attorney, Attorney at Large
Elmer Ritchie, Little Rock, Non-attorney at Large
Carolyn Morris, Danville, Non-attorney at Large

Panel C: Keith L. Chrestman, Jonesboro, Attorney, First Congressional District
James A. Simpson, Jr., Searcy, Attorney, Second Congressional District
Candice A. Settle, Van Buren, Attorney, Third Congressional District
Joseph Hickey, El Dorado, Attorney, Fourth Congressional District
Marshall S. Ney, Rogers, Attorney, At Large
Mark F. Smith, Marianna, Non-attorney at Large
Carlton Saffa, Non-attorney at Large

Panel D: (Reserve) Laura E. Partlow, West Memphis, Attorney, First Congressional District
Scott S. Hilburn, Little Rock, Attorney, Second Congressional District
Timothy C. Hutchinson, Fayetteville, Attorney, Third Congressional District
Paul W. Keith, Monticello, Attorney, Fourth Congressional District
E. Kent Hirsch, Springdale, Attorney at Large
Mitchell Lowe, Little Rock, Non-attorney at large
Ronnie Williams, Menifee, Non-attorney at large

The **2020 Executive Committee** consisted of:

Lisa C. Ballard, North Little Rock, Panel A, Committee Chair
Timothy F. Snively, Fayetteville, Panel B, Committee Secretary
T. Benton Smith, Jr., Jonesboro, Panel A Chair
Stephen R. Crane, Magnolia, Panel B Chair
Joseph Hickey, El Dorado, Panel C Chair

The **2021 Executive Committee** will consist of:

Timothy F. Snively, Fayetteville, Panel B, Committee Chair
Paul W. Hoggard, Piggott, Panel A, Committee Secretary
Mark L. Martin, Fayetteville, Panel A Chair
David P. Glover, Little Rock, Panel B Chair
James A. Simpson, Jr., Searcy, 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.

COMMITTEE MEETING CALENDAR:

Panel A meets on the third Friday of the months of January, March, May, July, September, and November.

Panel B meets on the third Friday of the months of February, April, June, August, October, and the second Friday of December.

Panels C and D meet “on call” for special settings of hearings.

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 offices at the Riverdale Plaza at 2100 Riverfront Drive, Little Rock, Arkansas 72202. 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 budget of the Committee and Office for 2020-2021 is about \$973,260 (allocated as: \$678,260 for personnel and \$295,000 for operations), totally funded by the Supreme Court by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court. No state or taxpayer funds are directly provided to support the office and committee.

The Office of Professional Conduct is staffed by four staff attorneys, a paralegal, and two administrative assistants. 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. In addition to Executive Director Stark Ligon, the Office staff attorneys during 2020 were Michael E. Harmon - Deputy Director, Charlene Fleetwood - Senior Staff Attorney, and Caroline Bednar - Staff Attorney.

In calendar 2020, as in previous years, the staff presented several “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 also 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 2020 calendar year, the Office opened new files on 559 grievances on attorneys alleged lawyer misconduct, decreased from 607 new files opened in 2019. See attached Appendix A.

In 2020, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2020 and carry-over cases from previous years, 675 files were closed, up from 557 files closed in 2019. For additional statistical information, see attached Appendix B.

IV. 2020 Formal Actions Initiated

In 2020, there were thirty (30) new formal Complaint attorney discipline cases opened for the Committee on Professional Conduct panel action, down from the forty-four (44) new formal Complaint cases opened in 2019. In 2020, twenty-one (21) formal Complaint files were closed, compared to twenty-six (26) closed in 2019.

V. 2020 Final Committee Actions

Final action was taken in twenty-one (21) formal Complaint files involving Arkansas attorneys during the 2020 calendar year by the Office and the Committee on Professional Conduct. There are five primary forms of action, or sanction, that the Committee on Professional Conduct may take. The lowest, a warning, is non-public. The other forms of sanction - caution, reprimand, license suspension, and initiating disbarment proceedings - are public sanctions. In 2020, eighteen (18) attorneys received at least one public sanction, down from twenty (20) in 2019.

VI. 2020 - Most Common Rule Violations

In the 2020 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Rules 8.4(d) (not engaging in conduct prejudicial to the administration of justice), 8.4(b) (criminal conduct), 1.4(a) (client communication), 1.3 (acting with reasonable diligence and promptness in representing a client), and 1.1 (competence). A list containing the Arkansas Rule alleged and the number of times the Committee found the rule to have been violated in 2020 is attached as Appendix “C”.

VII. “Practice Aging” of Attorneys Disciplined (2020)

Of the 2020 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, eighteen (18) attorneys were publicly sanctioned as follows. (Attorney age information is not available):

Years Licensed	No. of Attorneys Publicly Sanctioned	Percentage
01-10 (2010-2019)	5	27.78%
11-20 (2000-2009)	3	16.66%
21-30 (1990-1999)	5	27.78%
31-40 (1980-1989)	2	11.12%
41+ (before 1980)	3	16.66%
Total	18	100%

(Several attorneys were publicly sanctioned more than once in 2020.)

VIII. 2020 Fines, Restitution & Costs

Type	Amount Imposed (2020)	Amount Collected (2020)
FINES:	\$ 1,500.00	\$ 500.00
RESTITUTION:	\$ 11,000.00	\$ 13,998.68
COSTS:	\$ 1,450.00	\$ 900.00
TOTALS:	\$ 13,950.00	\$ 15,398.68

(Note: some of the collections in 2020 were assessed in cases finalized in earlier years. Costs in disbarment cases are rarely collected.)

IX. 2020 Trust Account “Overdraft” Reporting

There were thirty-seven (37) notices received in 2020 from all banks and reporters, compared to seventy-two (72) in 2019. Most of these files were closed after a summary investigation and explanation by the attorney involved. None of the 2020 files has resulted in filing a formal Complaint to date.

There are a few 2020 files still “open” to some extent, such as awaiting additional documentation from the attorney. Of the few 2020 files still open, none are believed to involve a loss of client funds.

The overwhelming majority of overdraft reports were due to some form 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.

X. Summaries of 2020 Public Sanctions – Appendix “D”

	Number	Designation	Description	Annual Total
2		Attorney		
3	001	A-A/C	Attorney Conduct	57
4	002	A-A/S	Advertisement / Solicitation	1
5		Criminal		
6	003	CR-D	Criminal Defense	147
7	004	CR-P	Criminal Prosecution	54
8	005	CR-A	Criminal Appeal	2
9		Domestic Relations		
10	006	DR-D	Divorce	43
11	007	DR-C	Custody	38
12	008	DR-C/S	Child Support	2
13	009	DR-QDRO	Qualified Domestic Relations Order	0
14	010	DR-V	Visitation	0
15	011	DR-DA/OP	Domestic Abuse / Order of Protection	2
16	012	DR-P	Paternity	3
17		Juvenile		
18	013	J-DHS	Department of Human Services	4
19	014	J-FINS	Families in Need of Services	0
20		Probate		
21	015	PR-E	Estate	33
22	016	PR-T	Trust	7
23	017	PR-W	Will	1
24	018	PR-POA	Power of Attorney	2
25	019	PR-G	Guardianship	13
26	020	PR-A	Adoption	2
27	021	PR-CC	Civil Commitment	0
28		Bankruptcy		
29	022	BNK-7	Chapter 7	2
30	023	BNK-11	Chapter 11	0
31	024	BNK-13	Chapter 13	9
32		Civil		
33	025	CV-A	Appeal	3
34	026	CV-C	Contract	26
35	027	CV-DC	Debt Collection	5
36	028	CV-F	Foreclosure	0
37	029	CV-J	Judgment	0
38	030	CV-LL/TN	Landlord / Tenant	0
39	031	CV-MM	Medical Malpractice	3
40	032	CV-MVA	Motor Vehicle Accident	16
41	033	CV-FED	Civil - Federal	7
42	034	CV-PI	Personal Injury	10
43	035	CV-PR	Property	29
44	036	CV-T	Tort	9

45	037	CV-UD	Unlawful Detainer	0
46	038	CV-N	Negligence	0
47	039	CV-INJ	Injunction	0
48	040	CV-MISC	Miscellaneous	1
49		Miscellaneous		
50	041	SSD-SSI	Social Security Disability / Income	5
51	042	WC	Workers Compensation	3
52	043	ACC	Arkansas Claims Commission	0
53	044	IMGN	Immigration	7
54	045	SCPC	Supreme Court Per Curiam	0
55	046	ARGV	Arkansas State Government	1
56	047	IRS	Federal or State Taxes	0
57	048	EMP	Employment	8
58	049	DC-SC	District Court - Small Claims	2
59	050	INT-PR	Intellectual Property	0
60	051	BS-CP	Business / Corporation	2
61	052	USVA	Veterans Administration	0
			TOTAL GRIEVANCES:	559
No.	Disposition	Description		
19	Formal	Formal Complaint		
0	Diversion	Diversion / Probation		
0	ACL	Atty / Client Resolution Letter		
297	NSF*	No Sufficient Finding		
16	W/D*	Withdrawn by Complainant		
0	Merged-S	Merged with Surrender		
0	Merged-D	Merged with Disbarment		
0	Disbarred	Closed - Disbarred		
2	Closed-D	Closed - Deceased		
0	Closed-S	Closed - Surrendered		
0	FTR	Complainant Failed to Respond		
0	UPL	Unauthorized Practice of Law		
224	Open	Investigation Pending		
1	FWD	Transfer to Alt. Jurisdiction		
559	Total			

APPENDIX "B"

Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Files opened	873	1,028	972	892	826	804	819	859	861	888	735	794	716	744	657	725	616	697	607	559
Closed by staff	691	737	825	796	868	1137	784	786	742	845	806	646	478	732	595	663	550	549	557	675
Complaints filed	149	186	200	164	159	156	140	114	144	119	97	85	67	51	57	52	34	33	44	30
Appellate Referrals	34	45	50	40	34	39	50	33	41	18	17	40	7	14	7	14	3	2	1	3
Judicial Referrals	13	12	12	8	8	19	6	4	4	6	10	18	3	8	11	7	13	13	4	9
Attorney Referrals	N/A	N/A	N/A	24	7	16	9	15	15	7	14	38	37	28	33	14	9	16	2	13
Complaints closed	135	178	185	211	181	173	182	122	128	119	106	74	78	63	45	53	47	41	26	21
Withdrawn	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0
No Actions	12	30	15	24	18	19	13	10	11	10	7	4	4	5	2	3	5	2	0	1
Warnings	45	53	54	38	33	53	41	37	46	26	20	13	8	10	17	14	10	6	2	1
Cautions	14	31	28	53	41	29	34	20	28	15	24	8	10	17	10	7	6	9	3	4
Reprimands	26	35	37	36	31	30	26	14	14	19	20	11	11	5	7	7	11	9	2	5
Suspensions	19	14	20	9	17	12	23	12	10	10	11	9	12	4	3	5	13	14	6	4
Surrenders	13	5	5	11	6	7	1	6	5	3	14	8	3	2	6	6	1	0	9	5
Merge / surrender	N/A	1	14	29	5	4	0	6	18	6	9	1	1	2	3	2	0	0	0	0
Deemed Surrendered (Rule 7)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	3	0	0	0
Disbarment initiated	6	3	3	3	7	2	1	1	2	1	2	1	4	2	0	1	0	0	0	0
Disbarments		0	0	3	0	2	2	2	4	3	0	0	5	2	0	0	2	1	0	1
Reinstated	3	3	8	10	13	11	6	0	6	2	2	5	9	7	11	2	2	2	0	1
Consents	13	35	54	71	51	64		45	50	28	29	18	7	8	13	13	14	7	4	6
Refer to ArJLAP	N/A	2	0	0	1	3	0	0	0	0	0	0	0	0	0	0	1	0	0	0
No. of Attys Publicly Sanctioned*	57	61	72	101	102	68	67	49	44	44	60	29	30	27	25	21	18	23	20	18

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Appendix “D” – 2020 Cases

DISBARMENT

Moritz, William Kurt of Hope, Bar No. 99021, was disbarred by the Arkansas Supreme Court by order dated December 17, 2020 in Supreme Court Case No. D-20-477. Moritz was the subject of two Committee disciplinary cases involving Shawn Marie Stevens, CPC No. 2018-016, and Stephen Lee Swender, CPC No. 2018-020.

Stevens, a resident of Indiana, was charged with state criminal offenses in Indiana in 2013. While visiting her hometown of Hope, Arkansas, she met with Moritz and discussed the pending matter. Moritz, who is not and has never been licensed to practice law in Indiana, stated he could represent her in the Indiana matter. Moritz received \$3,500 for the representation. In 2015, Stevens received a letter from the Indiana court about her case. She called Moritz and he stated that this was a court error and he would take care of it. During a routine background check by her employer, it was discovered that there was an active warrant for her arrest for failure to appear on the 2013 criminal charge. Stevens filed suit against Moritz in Hempstead County Circuit Court. Moritz filed a response to the lawsuit, but failed to respond to requests for interrogatories. Stevens filed a motion for partial summary judgment for Moritz’s failure to file a response. The motion was granted, finding that Moritz had received \$3,500 for representation in a criminal case in Indiana where he was not licensed to practice law, had not practiced law in Indiana, and did not represent Stevens in a generally accepted standard of practice of an attorney.

Swender, a resident of Michigan, owned a home in Arkansas. Swender contacted Moritz in January 2018 about representing him in a landlord-tenant matter. Moritz agreed to represent Swender for \$750. Following payment of the fee, Swender experienced difficulty contacting Moritz. Swender then searched the internet and learned that Moritz’s license to practice law had been suspended effective June 12, 2017 and had not been reinstated. The Committee on Professional Conduct voted that disbarment proceedings be initiated against Moritz.

Criminal charges of theft by deception were also filed in 2018 against Moritz in five other and separate criminal cases. On September 27, 2019, Moritz entered five guilty pleas to misdemeanor theft of property and was placed on probation for six months, fined, and ordered to pay costs. A Petition for Disbarment was filed on July 31, 2020, and Moritz was served on October 23, 2020. Moritz failed to file a timely response to the Petition for Disbarment. On December 17, 2020, the Arkansas Supreme Court granted Petitioner’s motion for order of default judgment of disbarment.

SURRENDER

Keeter, Bobby K. of Mena, Arkansas, Bar No. 77076, in Supreme Court case No. D-20-138, surrendered his law license effective April 1, 2020. The surrender was accepted by the Arkansas Supreme Court by Formal Order issued March 19, 2020. In Committee No. CPC 2019-026, Keeter was found to have violated Arkansas Rules of Professional Conduct 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 8.1, 8.4(d), and §9.C(1) of the Procedures by failing to file a response to the Complaint, for which he was assessed a separate Reprimand. The Committee suspended Keeter for a period of three (3)

months. Keeter then petitioned the Committee for surrender of his license which was approved by the Committee and filed with the Court.

In 2011, Keeter was hired by Diane Huffman regarding opening an estate of her deceased grandmother. Ms. Huffman paid Keeter for a title search of the property. Keeter then opened the probate administration. Ms. Huffman had opened a probate case for her deceased father in Iowa, and Keeter opened an Arkansas ancillary probate for her father. Ms. Huffman was administrator in both probate matters. Ms. Huffman paid Keeter each time a billing statement was sent to her. After not hearing from Keeter for some time, Ms. Huffman wrote the judge a letter requesting assistance in contacting Keeter. The judge forwarded the letter and a directive to Keeter to contact Ms. Huffman, which Keeter failed to do. Ms. Huffman filed a grievance against Keeter with the Office of Professional Conduct (“OPC”), which sent Keeter copy of Huffman’s grievance, requesting information and an informal response to the allegations. No response was received. Keeter failed to respond to several other attempts by OPC to obtain information from him. Keeter was served with the Formal Complaint but failed to respond.

Satterfield, Guy Randolph “Randy”, of Little Rock, Bar No. 81140, through Committee case No. CPC 2019-044, petitioned the Supreme Court for the surrender of his law license in lieu of disciplinary proceedings. On January 23, 2020, in No. D-19-989, the Court accepted his petition and removed him as an attorney. Satterfield’s surrender arose from his handling of two probate cases. In one case, Satterfield placed approximately \$97,000 belonging to the estate into his trust account and then depleted the funds over a period of time until his trust account showed a balance of \$11.30. None of the money removed from the trust account was used for the benefit of the estate. In the second case, Satterfield received funds for an estate and placed those funds into his trust account. Other than two withdrawals from the account for the benefit of the estate, the remainder of the funds were depleted. Satterfield did provide money to the beneficiaries of that estate from a separate source of funds. Satterfield violated Arkansas Rules 1.15(a), 8.4(b) and 8.4(c).

Kubicek, C. James, ABN 73070 of Conway. On September 10, 2020, in No. D-20-493, the Supreme Court of Arkansas granted Kubicek’s Petition to Surrender his law license. Kubicek acknowledged that issues existed relating to his IOLTA trust account over a period of years and that he could not accurately account for all funds, including approximately \$114,000 from former client George Thomas, now deceased and who was in the ADC at the time the funds were transferred to Kubicek. Kubicek acknowledged that the evidence could likely be construed as supporting violations of Rules 1.15, 8.4(b), and 8.4(c).

Petersen, Paul D., ABN 2015249 of Mesa, Arizona, in No. D-20-494 petitioned the Arkansas Supreme Court for surrender of his Arkansas law license, which was granted and ordered September 10, 2020. Petersen was licensed to practice law in Arizona, Utah, and Arkansas. He engaged in adoptions involving Marshallese Island birthmothers whose children were placed for adoption in these three states. In 2019 felony charges were filed in state court in Arizona and Utah and federal court in Arkansas related to his adoptions. He has entered guilty pleas in all three states in 2020, and awaits sentencing in Arkansas in USDC No. 19-cr-50079 (Western District of Arkansas), where he was charged with four counts of transporting pregnant resident Marshallese Island birthmothers in 2014-2015 to the United States for the purpose of here adopting out their child when born, in criminal violation of the Compact between the Republic of the Marshall Islands and the USA. Petersen has been on interim suspension in Arkansas since late October 2019, after news of his indictment became public.

Smith, Joseph Blake, ABN 2011071 of Little Rock, in No. D-20-412 petitioned the Arkansas Supreme Court for surrender of his Arkansas law license, which was granted and ordered July 23, 2020. Smith was involved in the oil and gas leasing business through several business entities, as set out in lawsuits in Pulaski County Circuit Court 60cv-18-6688 and 60cv-19-608, the “Bold Energy” cases. Smith invoked his Fifth Amendment right to not be deposed or to testify in an arbitration proceeding, which led to an agreement that a \$7,000,000 arbitration award and judgment was entered against him in May 2019 and he placed \$1,500,000 in a settlement escrow account for the benefit of third persons and parties, including plaintiffs in Bold Energy I. Smith acknowledged his conduct could be found to violate Rules 8.4(b) (criminal conduct) and 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

SUSPENSION

McCallister, Bobby D., of Benton, Bar No. 91103, served as a circuit court judge in Saline County from 2009 through 2017. Prior to becoming a judge and during his time as a judge, McCallister failed to file state income-tax returns, a felony under Arkansas Code §26-18-202. McCallister entered a no-contest plea on one count of failure to file a tax return and resigned from office. A disbarment action was filed with the Supreme Court. Following trial, the Special Judge found McCallister violated Rules 8.4(b), 8.4(c), and 8.4(d), that McCallister’s action involved Serious Misconduct, and recommended that McCallister’s law license be suspended for nine months. The Court found that some of McCallister’s conduct occurred while he served as a sitting circuit court judge and that judges must be held to a higher standard. The Court found that McCallister did not profit from failing to file, that his misconduct did not relate to the practice of law, and, as he had no clients, none were affected. The Court adopted the findings of the Special Judge and imposed a nine-month suspension on February 20, 2020.

May, John Marshall of Harrisburg, Bar No. 2000039, in CPC 2019-018, by Findings and Order filed December 1, 2020, was Suspended for a period of five years (60 months) for violations of Rule 8.4(b) and ordered to pay \$300 costs. May entered a guilty plea to one felony count of Possession of Drug Paraphernalia in Poinsett County Circuit Court Case No. CR-2017-417, and he was sentenced under the Arkansas First Offender Act and received three (3) years’ probation with conditions. The effective date of Marshall’s suspension is August 20, 2019, when Marshall was placed on Interim Suspension.

SUSPENSION-STAYED

Finley, David Bryce of Las Vegas, Nevada, AR Bar No. 2004003, in committee case No. CPC 2020-002 by Order of Reciprocal Discipline filed February 21, 2020, was suspended from the practice of law for a period of two (2) years, fully stayed with an eighteen (18) month probationary period. Finley is an attorney licensed in 2004 to practice law in the State of Arkansas and is also licensed as an attorney in the State of Nevada. On December 12, 2019, an Order Approving Conditional Guilty Plea was filed in Case No. 79607 before the Supreme Court of the State of Nevada. The Supreme Court of the State of Nevada reviewed and approved the Southern Nevada Disciplinary Board hearing panel’s recommendation of acceptance of Finley’s guilty plea. Under the agreement, Finley admitted to violating a diversion and mentoring agreement he entered into

pursuant to Nevada Rule SCR 105.5. That agreement was terminated under the plea and alternate sanctions were imposed. Finley admitted the facts and violations as part of his guilty plea agreement. Finley agreed to a two (2) year license suspension, fully stayed subject to certain conditions, while he serves an eighteen (18) month probationary period.

Hutchinson, William Asa, III, ABN 2001115, of Bentonville, by Consent Findings & Order filed July 20, 2020, in No. CPC 2019-039 agreed to a fully-stayed indefinite license suspension with 24 months' probation, starting as of December 2018, under the supervision of a lawyer he selected for violation of Rule 8.4(b), engaging on criminal conduct. This is the same sanction imposed upon him in Missouri in December 2018, where he is also licensed. In May 2016 Hutchinson was arrested in Alabama and charged with felony possession of a controlled substance. He tendered a plea, completed conditions of deferred adjudication, and in August 2018 the charge was nolle prossed without entry of a judgment.

REPRIMAND

Robert A. Newcomb, ABN 73087, of Little Rock, in Committee Case No. CPC 2019-043, on a complaint by James Blackwood, by a Consent Findings & Order filed April 17, 2020, admitted to violations of AR Rules 1.1, 1.3, and 8.4(d), for which he agreed to a reprimand and restitution to Blackwood of \$3,000. Blackwood was approached in early 2017 by two investors to join them in a new Cajun-themed restaurant in Conway, and bring to the venture his restaurant management expertise, a full-service liquor permit he held, and a modest capital contribution. Blackwood did work for the venture, but problems arose in mid-2017, and Blackwood engaged Newcomb for representation and eventually paid him about \$3,000. Newcomb filed suit in state court against the other two members of the venture, alleging a verbal contract with Blackwood and money damages. Defective summonses were issued. The case was dismissed without prejudice on motion of one of the defendants. In February 2018, Newcomb refiled the same basic suit, praying for damages of \$52,000. Defective summonses were again issued. A motion to dismiss was filed, to which Newcomb failed to file a response. In September 2018, the motion was granted, with dismissal with prejudice. Blackwood then sued Newcomb for legal malpractice over the two failed lawsuits. That case, No. 60cv-19-2139, is still pending.

Robert A. Newcomb, ABN 73087, of Little Rock, in Committee Case No. CPC 2020-001, on a complaint by Arthur Kaye, by a Consent Findings & Order filed April 17, 2020, admitted to violations of AR Rules 1.1, 1.3, 1.4(a)(2), 1.4(a)(3), and 8.4(d), for which he agreed to a reprimand and restitution of \$3,000 to Kaye. In early 2017, Kaye employed Newcomb and paid him about \$3,000 to sue his former employer of twenty-eight years in federal court for wrongful termination. Discovery issues arose, to which Newcomb failed to file responses or keep his client properly informed. The case was dismissed without prejudice in July 2019, but Kaye only learned of that from a later visit to the clerk's office and a review of his file there. Kaye had no communication from Newcomb about the status of his case after August 2019. Any refile for Kaye may have been time-barred by then. Kaye is not aware that Newcomb ever refiled or offered to refile his suit.

Davis, Ronald L., Jr., ABN 98016, of Little Rock, in committee case no. CPC 2019-041 by Findings and Order filed May 8, 2020, was reprimanded for violations of Rules 1.3, 3.4(c), and 8.4(d). Davis was fined \$1,000.00. With Davis as his attorney at the trial court level, Gary Holmes was convicted by a jury of first-degree murder and terroristic act and using a firearm in commission

of the acts. Davis filed a Notice of Appeal of the conviction on September 25, 2018. The record was lodged with the Supreme Court Clerk on December 26, 2018, making Davis' brief due February 4, 2019. Davis failed to file his client's brief on or before February 4, 2019. On February 20, 2019, Rayanne Hinton, Chief Deputy Clerk of the Arkansas Court of Appeals emailed Davis as a follow up to a previous conversation advising him that the brief had not been filed as of that day and that her next step was to alert the court of his failure to file the brief. On April 2, 2019, the State of Arkansas filed a Motion to Dismiss the appeal for Davis' failure to file the brief by February 4, 2019, and his failure to move for an extension of time to file the brief. Davis filed a Response to Motion to Dismiss and a Motion to File Belated Brief on April 5, 2019. On April 24, 2019, the court entered its Formal Order denying the State's Motion to Dismiss, granting Davis' Motion for Belated Brief, and referring Davis to the Office of Professional Conduct. Davis' brief was due May 14, 2019, which was a final extension. On May 15, 2019, the court granted another extension with a due date of May 29, 2019. On May 25, 2019, Davis filed a Motion to Stay the briefing schedule and a Petition for Writ of Certiorari to Correct the Record alleging the record prepared by the Pulaski County Circuit Clerk included documents and transcripts from a case not part of the appeal. The court granted the Motion to Stay on June 19, 2019, treating it as an extension of time request, but denied the Petition for Writ of Certiorari to Correct the Record. A final extension was given for submission of the brief for June 29, 2019. Despite being given a final extension of June 29, 2019, on July 1, 2019, Davis filed another Motion for Extension of Time to File Brief. In his motion, Davis argued that since June 29, 2019, was a Saturday, that his brief was due Monday, July 1, 2019. However, Davis failed to file the brief on Monday, July 1, 2019. Davis filed the brief on Tuesday, July 2, 2019. The court granted an extension on July 17, 2019.

Charles Sidney "Chuck" Gibson, II, ABN 90030, of Dermott, on August 20, 2018, was charged in federal court with one misdemeanor count of failing to file a federal individual income tax return for 2012. He entered a guilty plea on November 28, 2018, and was sentenced to three years' probation, 200 hours of community service, six months home detention with electronic monitoring, and ordered to pay restitution to the IRS of \$344,162, covering his failure to file returns for 2010, 2011, and 2012, on estimated and imputed taxable income of \$1,093,308. Gibson's admitted conduct violated AR Rule 8.4(b), committing a criminal act. In Committee Case No. CPC 2019-022 he consented to a reprimand in a Consent Findings & Order filed June 19, 2020.

Morehead, David F., ABN 89143 of Pine Bluff, by Findings and Order filed August 24, 2020, in No. CPC 2020-004, was Reprimanded for his violations of Rules 1.3, 1.4(a)(3), and 8.4(d), ordered to pay a fine of \$500.00, and assessed costs of \$50.00. Morehead filed a Chapter 13 Bankruptcy for Talesha Callaway, but Morehead did not file a modification of Callaway's plan despite the court ordering it to be done. The Court entered an Order of Dismissal for Failure to Modify, and Morehead did not inform Callaway that her bankruptcy case had been dismissed. Callaway retained a new attorney, who filed a Motion to Reopen Case which was granted.

CAUTION

Taylor, Gregory D., Bar No. 93080, of Benton, in CPC 2019-031 by Consent Findings and Order filed March 20, 2020, was Cautioned for his violations of Rules 1.4(a)(3) and 8.4(d), ordered to pay Restitution in the amount of \$2,500 to James and Laura Engelhorn, and assessed Costs in the amount of \$50. Mr. and Mrs. Engelhorn retained Taylor's firm and paid Taylor a \$5,000 retainer to represent them in pursuing a civil matter. Discovery responses were not timely submitted by

Taylor. Taylor failed to keep Mr. and Mrs. Engelhorn informed about the case and failed to notify them that there were any issues regarding the discovery, including an Order to Compel and a \$500 sanction assessed against them and payable to the opposing attorney. Taylor's conduct led to the clients terminating his services and non-suiting the case.

Jacqueline Chronkhite (formerly Dodd), ABN 2011180, of Fort Smith, in Committee Case No. CPC 2020-006, on a complaint by Karen Johnson, consented to a disposition of a caution for violations of AR Rules 1.3, 1.4(a)(1), 1.4(a)(2), 1.4(a)(3), and 1.4(b) in a Consent Findings & Order filed June 19, 2020. Chronkhite undertook representation of Johnson in a medical malpractice matter arising from eye surgery on Johnson in June 2015. In June 2017, Chronkhite filed suit specifically to beat the statute of limitations, but informed Johnson that Chronkhite needed \$500 from Johnson to serve the several defendants, and Chronkhite, a solo practitioner at the time, could not herself fund what would be an expensive case if pursued. Chronkhite claimed to have sent several letters to Johnson reminding her of the need for the service funds. Johnson claimed she received none of the letters. Chronkhite filed for an extension of time to serve summons. The court set the motion for a hearing, learned Chronkhite had not yet had summonses issued, and denied the motion, effectively killing the lawsuit and cause of action, as the statute of limitations had by then run. At the hearing, Chronkhite chose to not disclose certain information about her dealings with her client, believing the attorney-client privilege did not allow her to do so. Chronkhite accepted the fault for what happened to Johnson's suit.

Marshall, James Andrew of Conway, Bar No. 2014023, in CPC 2019-040, by Findings and Order filed October 8, 2020, was Cautioned for violations of Rules 3.4(c) and 8.4(d), ordered to pay \$2,500 restitution to Anitha Carter, and ordered to pay \$500 costs. Marshall's license was automatically suspended in April 2019 when he failed to pay his license fee, and his license remained suspended while he represented Carter. Marshall was served with the Complaint and did not file a response. Marshall later filed a Motion to File Belated Response, which was accepted by the Panel as a timely response.

Potter, Joshua L., ABN 2011143 of Texarkana, in No. CPC 2020-015, by Consent Findings and Order filed September 18, 2020, was Cautioned for his violations of Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 8.4(d) and was assessed costs of \$50.00. Potter represented defendant Antwon Wheaton as private counsel in Miller County. A jury convicted Wheaton and sentenced him to 144 months in ADC. Potter filed a Motion for New Trial and sent Wheaton a letter asking whether Wheaton wished to appeal from the jury trial conviction. In response, Wheaton sent Potter a handwritten letter in which he stated he did wish to appeal. Potter failed to file a Notice of Appeal on behalf of Wheaton. Wheaton filed a pro se Notice of Appeal. Potter filed a Motion to Withdraw and to Appoint Appellate Counsel. In the Motion, Potter acknowledged that he assumed Wheaton did not wish to appeal, but he later learned that Wheaton did wish to appeal and had timely sent Potter a letter so stating.