

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

IN RE: **LISA DIANE DAVIS**
Arkansas Bar ID #2001072
CPC Docket No. 2012-042

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Katy Knighten on May 24, 2012. The information related to the representation of Ms. Knighten in 2010-2012 by Respondent Lisa D. Davis, an attorney practicing primarily in Piggott, Clay County, Arkansas. On July 30, 2012, Respondent was served with a formal complaint, supported by affidavits from Katy Knighten, Kelly Wood, and Shannon Horton.

In late 2010 Katy Knighten of Cherokee Village, Arkansas, was a twenty-year old single mother of two small children involved in a court case in Sharp County, Arkansas, over custody of the children. In April 2011 she moved to Pascagoula, Mississippi, where she has since lived, works and goes to school, near her parents Mark Knighten and Kelly Wood.

She had an approaching court date of December 13, 2010, in Arkansas, needed an attorney, and Lisa Davis of Piggott was recommended to her. She made an appointment to drive from Cherokee Village to Piggott, about a two hour drive each way, to meet with Davis on December 1, 2010, at 3:00 p.m. Her friend, Shannon Horton of Cherokee Village, went with her and was with Ms. Davis and Knighten most of the time that Knighten met with Ms. Davis in her office. Both Knighten and Horton stated the time of the consultation was about two hours. Davis took information from Knighten and then quoted her a fee \$3,500, requiring

payment of \$1,750, one-half, up front. Knighten then called her mother Kelly Wood in Mississippi. Ms. Wood then called Lisa Davis and Davis quoted her the same fee. When Ms. Knighten was unable to come up with the \$1,750 in the few days before court to employ her, Ms. Davis told Knighten to go to court without a lawyer and then contact Davis and let her know what happened.

Knighten called Davis after court on December 13, 2010, and told her the children had been taken away from Knighten, she wanted to hire Davis, but had to come up with the \$1,750. Knighten called Davis' office in January 2011 to inform her of what was said in court that month. Responding to an inquiry from the Office of Professional Conduct (OPC) in 2012, Davis sent a copy of a "Statement" dated February 3, 2011, addressed to Knighten in Cherokee Village. Knighten states she never saw the Statement before OPC showed it to her in 2012.

Because Knighten still did not have the \$1,750 to retain Davis, she did not call again until Knighten wanted to set up the appointment to come in and hire Davis for a court date on December 14, 2011. Unable to meet with Davis before court, Knighten and her mother went to court on December 14 without a lawyer. The judge did not give Knighten custody of her children, and he did not order any visitation for her with them. Money for the fee was borrowed from a friend and an appointment made to meet on December 20. Upon arrival in Piggott for the appointment, Davis' office staff informed them that Ms. Davis had been detained in Louisiana and could not make it due to bad weather. Ms. Davis was contacted by her staff by text messaging. Ms. Wood paid the office \$1,750 in cash for the purpose, she thought, of retaining Lisa Davis' services for Katy Knighten.

Davis provided OPC a May 30, 2012, billing to Knighten, which Knighten seriously disputed as being accurate as to time spent on her matter. From December 2011 to the end of April 2012, Knighten's phone records show sixteen short calls she placed to Davis' number in an attempt to contact Davis. Knighten got an answering machine over "spring break" in March 2012, but no return call. After spring break, she would get two rings then it went silent. On March 22, 2012, a Committee panel ordered Davis to then begin serving a three-month license suspension in another case, No. CPC 2011-078.

On April 23, 2012, Knighten mailed Davis materials from Mississippi agencies and schools for the May 9, 2012, court hearing. On April 26, 2012, Knighten mailed Lisa Davis a letter asking if Davis was going to appear with Knighten in court. On May 7, 2012, two days before court, as Knighten and her mother were making the nine hour drive from the Mississippi Gulf Coast to Arkansas, Davis called them on her cell phone. Davis informed them that her law license had been suspended and Davis was unaware that Knighten had retained her. Davis claimed that she thought the \$1,750 was to pay for the visit in December 2010, and later consultations, and not to retain Davis on December 20, 2011.

Unable to find another attorney on a day's notice, Knighten went to court on May 9, 2012, and did not get her children returned to her. Her dad has helped her find an attorney in Jonesboro, who is charging \$2,500.00, and will go to court with Knighten on October 5, 2012, if the money can be raised to pay him. Davis's informal version of these events was obtained by the Office of Professional Conduct before the Complaint was prepared and filed.

In her Response, Ms. Davis offered that in December 2010 and January 2011 she had used ten hours of her time, at \$175 per hour, advising Ms. Knighten on her legal matter, billed

Knigheten for the \$1,750 on February 2011, and the \$1,750 Knigheten paid Davis in December 2011 was for that earlier billing and not for any prospective representation. Davis then claims she was never employed and paid by Knigheten the quoted fee for any representation after December 2011, and did not know until May 7 that Knigheten had a court appearance on May 9, 2012.

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

A. The conduct of Lisa Diane Davis violated Rule 1.4(a)(4) in that over December 2011-April 2012, Katy Knigheten made numerous calls to Davis' office seeking information about the status of her legal matter, sent Davis two mailings in April 2012, and got no response until Davis called her on May 7, 2012, two days before Knigheten's court date, and only then was informed Davis' law license had been suspended. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

B. The conduct of Lisa Diane Davis violated Rule 1.5(a) in that at some date, maybe in February 2011, Davis claims she billed Katy Knigheten for 5.5 hours of consultation on December 1, 2010, when the evidence is that the meeting only last about two hours, an excessive fee by about \$612.50 ($\$175 / \text{hour} \times 3.5 \text{ hours}$) under the circumstances. Arkansas Rule 1.5(a) requires that a lawyer's fee shall be reasonable. A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following: (1) the time and labor required, the novelty and difficulty of the questions involved, and the

skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent.

C. The conduct of Lisa Diane Davis violated Rule 8.4(c) in that on December 20, 2011, Davis was paid her requested \$1,750 retainer, of a quoted \$3,500 fee, for representation of Katy Knighten in the child custody matter, and Davis thereafter denied in May 2012 that she had been employed by Knighten in the matter in December 2011, conduct by Davis involving dishonesty, fraud, deceit or misrepresentation. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **LISA DIANE DAVIS**, Arkansas Bar ID# 2001072, be, and hereby is, **REPRIMANDED** for her conduct in this matter, and ordered to pay \$50.00 case costs. The \$50.00 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: /s/ Barry Deacon, Chair, Panel B

Date: January 2, 2013

Original filed with the Arkansas Supreme Court
on March 1, 2013.