

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

IN RE: RONALD L. GRIGGS, Respondent
Arkansas Bar ID#72046
CPC Docket No. 2012-055

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Jason Arrington in an Affidavit dated August 28, 2012. The information related to the representation of Jill Arrington Wood by Respondent in a domestic relations matter in which Jason Arrington is the opposing party.

On September 7, 2012, Respondent was served with a formal complaint, supported by affidavit from Jason Arrington, Arkansas Rule of Civil Procedure 45 (March 2009 version), Arkansas Supreme Court Opinions in *Lewellen v. Supreme Court Committee on Professional Conduct*, 110 S.W.3d 263 (2003) and *Thompson v. Supreme Court Committee on Professional Conduct*, No. 06-1069 (2007), Columbia County Circuit Clerk's Docket Sheet for case number DR2006-192, Arrington v. Arrington, and the Findings and Order delivered in CPC 2011-057 with regard to use of a "stealth" subpoena. After service, Mr. Griggs filed a timely response with Affidavit of his own.

The information before the Committee reflected that Ronald Griggs, an attorney practicing primarily in El Dorado, Arkansas, represented Jill Arrington (Wood) in Columbia County Circuit Court case number DR2006-192-3. William Jason Arrington is the opposing party in that matter. The divorce and post-Decree matters have been long and contentious.

In March 2009, Mr. Griggs served a Subpoena Duces Tecum on the former employer of

Mr. Arrington. There was no notice given to Mr. Arrington of the subpoena nor the service of the same. In the Spring of 2010, while discovery was ongoing in post-Decree matters, Mr. Arrington learned of the subpoena to his former employer through responses filed by his ex-wife and Mr. Griggs. At that time, Mr. Arrington contacted his former employer and received an e-mail with the subpoena attached. Thereafter, Mr. Arrington's counsel filed a Motion to Exclude Testimony and Documents obtained through the subpoena. That Motion was denied in an Order filed June 9, 2012.

The subpoena had been issued by Mr. Griggs on March 6, 2009. It was executed by Mr. Griggs and not filed with the Circuit Clerk. As an officer of the court, and because he was counsel of record in the pending matter, Mr. Griggs was allowed to execute the subpoena. However, it was subject to the requirements of Rule 45 of the Rules of Civil Procedure which were in effect in March 2009.

A subpoena requiring documents to be provided had to be issued in connection with a trial, hearing, or deposition. However, there was no scheduled hearing, trial or deposition in the divorce proceeding. Not only was there no hearing, pursuant to Rule 45, notice was to be given promptly to all parties in the manner prescribed by Rule 5(b).

Mr. Arrington was given no notice that the subpoena was issued nor was he allowed any opportunity to object. There was no permission from Mr. Arrington for his former employer to release the records as they did to Mr. Griggs.

In his response to the formal disciplinary complaint, Mr. Griggs admitted that he did not provide notice to Mr. Arrington that a subpoena duces tecum had been issued, nor did he serve Mr. Arrington with the subpoena. Mr. Griggs also admitted that he issued the subpoena even

though there was no hearing or deposition scheduled in the matter in which the subpoena had been issued, but offered that a request for hearing was pending before the Circuit Court.

Instead of going through proper discovery methods, Mr. Griggs used a “stealth” subpoena, which is not permitted under Rule 45 of the Rules of Civil Procedure. “Stealth” subpoenas are improper and notice is necessary for any subpoena.

Mr. Griggs had avenues available to him pursuant to Arkansas Rules in which to obtain the records he sought without the necessity of not following the requirements of the Rules adopted by the Arkansas Supreme Court or being dishonest and deceitful himself in obtaining the documents.

The Arkansas Supreme Court has set out in two separate disciplinary matters that an attorney is expected to know the law. In this matter, Mr. Griggs was expected to know the protections the Court placed in Rule 45 to allow the person whose documents have been subpoenaed the opportunity to object before service of the subpoena and certainly before compliance with the subpoena. Mr. Griggs failed to comply with the requirements of Rule 45 and did so in a dishonest method by hiding from Mr. Arrington, the opposing party in the matter, the fact that a subpoena for the documents had been issued.

Mr. Griggs acknowledged that lawyers are presumed to “know the law,” but that while he is now aware that Rule 45 in effect at the time the subpoena was issued required the subpoena to be joined to a deposition or hearing and notice be given to Mr. Arrington, at no time did he consciously intend to violate the rules regarding issuance and notice of subpoenas.

In addition to the above, Mr. Griggs engaged in other conduct which did not comply with the Rules of Civil Procedure nor were they appropriate ethically or in fairness to opposing party.

Mr. Griggs presented an Order for Name Change to the Circuit Judge. Mr. Arrington asserted no notice was given him as the opposing party to the matter that relief was being sought in the nature of change of name. Although Mr. Arrington might not have had grounds to stop the name change, he was entitled to notice since the matter was filed in the divorce proceeding wherein he was opposing party. This was not a new matter filed to seek name change, this was an Order presented with no corresponding Petition and no notice to opposing party. At the time the formal complaint was prepared, it was alleged that Mr. Griggs did not file a Petition for Name Change. He did file a Petition for his client, but no notice was given to Mr. Arrington. Mr. Griggs explained that because Ms. Arrington is an adult and divorced from Mr. Arrington at the time the Petition for Name Change was filed, Mr. Arrington had no right to object and because the matter could be heard ex parte, Mr. Arrington was not entitled to notice.

On August 30, 2007, Mr. Griggs sent a letter to Mr. Arrington seeking information about postings on an internet site which Mr. Griggs advised vilified Mr. Arrington's ex-wife's family. Mr. Arrington did not respond to the letter and believed if Mr. Griggs was seeking an Order, he would file an appropriate Motion seeking the relief he was requesting. However, Mr. Griggs did not do so. Mr. Griggs sent a letter to Judge Keaton requesting an Order be signed so that he could obtain information from TOPIX, INC. Again, the docket sheet demonstrates no Motion was filed seeking the relief Mr. Griggs obtained in the Order filed September 7, 2007. Before he knew that the Order had been signed, Mr. Arrington sent a responsive letter to Judge Keaton. In his response to the formal disciplinary complaint, Mr. Griggs explained that Mr. Arrington was copied on the letter to Judge Keaton and the communication was not ex parte.

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

1. That Mr. Griggs' conduct violated Rule 3.4(c), when he failed to provide notice that a subpoena duces tecum had been issued for Mr. Arrington's employment records as required by Rule 45 of the Rules of Civil Procedure; when he failed to serve Mr. Arrington with the subpoena in accordance with Rule 5(b) of the Rules of Civil Procedure as required by Rule 45 of the Rules of Civil Procedure; and, when he issued a subpoena duces tecum even though there was not a hearing or deposition scheduled in the matter in which he had the subpoena issued. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

2. That Mr. Griggs' conduct violated Rule 3.5(b), when he obtained an Order from Judge Keaton authorizing the former Mrs. Arrington's name change, by sending the Order to the Court with no notice to Mr. Arrington, and, when he obtained an Order allowing him to obtain information from TOPIX, INC., with no appropriate Motion filed seeking the relief, merely a letter to the Circuit Judge with an Order which was entered prior to Mr. Arrington having opportunity to be heard, because of the ex parte nature of the communication and request for relief. Rule 3.5(b) requires that a lawyer not communicate ex parte with such a person (judge, juror, prospective juror or other official) during the proceeding unless authorized to do so by law or court order.

3. That Mr. Griggs' conduct violated Rule 4.4, because while representing Jill Marie Gilreath, Mr. Griggs had a subpoena issued in a case where no hearing or deposition was set and

failed to comply with the law in Arkansas which establishes the manner in which notice of subpoenas are to be given. He obtained documentation and information from Jason Arrington's employer in violation of the Rule in Arkansas which sets out the specific method for the use of subpoenas for production of documents, which Rules were put in place for the protection of those whose records are being subpoenaed. Rule 4.4 requires, in pertinent part, that in representing a client, a lawyer not use methods of obtaining evidence that violate the legal rights of such a person.

4. That Mr. Griggs' conduct violated Rule 8.4(c), because by an act of omission, Mr. Griggs deceitfully hid from Mr. Arrington that a subpoena had been issued for his employment records, in that no notice was given to Mr. Arrington, the opposing party in the legal matter, who was not represented by counsel at the time of the issuance of the subpoena, prior to service and compliance with the subpoena. Rule 8.4(c) requires that a lawyer not 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 A, that RONALD L. GRIGGS, Arkansas Bar ID# 72046, be, and hereby is, CAUTIONED for his conduct in this matter. In addition, Mr. Griggs is assessed the costs of this proceeding in the amount of FIFTY DOLLARS (\$50). 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

within 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 A

By: /s/ Danyelle J. Walker, Chair, Panel A

Date: February 11, 2013

Original filed with the Arkansas Supreme Court on
March 7, 2013.