

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

IN RE: DONALD W. COLSON, Respondent
Arkansas Bar ID#2005166
CPC Docket No. 2012-079

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Lorene Williams in an Affidavit dated November 1, 2012. The information related to the contact Mrs. Williams had with Mr. Colson when she was seeking an attorney to assist her with a legal matter she wished to pursue.

On January 4, 2103, Respondent was served with a formal complaint, supported by affidavit from Mrs. Williams. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The undisputed information before the Panel reflected Donald W. Colson, an attorney practicing primarily in Benton, Saline County, Arkansas, was contacted by Mrs. Williams concerning a civil matter she was interested in pursuing. When Mrs. Williams met with Mr. Colson to discuss the matter, she took with her the medical records which related to the action she wished to pursue. Mrs. Williams had purchased those records herself and left them with Mr. Colson for review.

After the initial consultation, Mr. Colson sent a letter to Mrs. Williams concerning representing her and what the fee would be. Mr. Colson provided Mrs. Williams with a written fee agreement to sign and also requested a \$1500 non-refundable retainer. When Mrs. Williams

received the letter and the fee agreement, she discussed it with her husband. Mrs. Williams and her husband decided that they could not afford to pay the \$1500 non-refundable fee because they could not afford to just lose their money. When the decision was made, Mrs. Williams called Mr. Colson's office to inform him of this fact. Mrs. Williams was unable to speak with Mr. Colson but left a message with his secretary and requested her records be returned to her.

Mrs. Williams heard nothing from Mr. Colson in spite of leaving numerous telephone messages for him. She never received her records. Finally, Mrs. Williams sent Mr. Colson a letter. Then, on June 13, 2011, Mr. Colson sent a letter to Mrs. Williams advising her that he had moved his office and he would have to look in storage to locate her records. Mrs. Williams thought Mr. Colson would be sending the records at that time, but she still had not received them at the time of the execution of her Affidavit.

Mrs. Williams' grievance was received in the Office of Professional Conduct during August 2011. On September 20, 2011, Mr. Colson was written and requested to provide information about the records and why they had not been provided to Mrs. Williams. He did not respond in a timely fashion. A follow up e-mail was sent to Mr. Colson to which he also sent no response.

Finally, on October 31, 2011, Mr. Colson sent a letter to the Office of Professional Conduct stating that he had met with Mrs. Williams and that he did tell her he would look for her records and return them when he found them. Mr. Colson said he would look for them as time allowed and would return them as soon as located. Mr. Colson's letter demonstrates his lack of concern in returning the records to Mrs. Williams so that she would have the prompt return of the property that belonged to her. In fact, it was not until a week after the Executive Director wrote

Mr. Colson that he (Mr. Colson) advised he had found the medical records and was returning them to Ms. Williams.

Mr. Colson was entrusted with Mrs. Williams' medical records when she met with him about her legal matter. They were not ever his property. The records belonged to Mrs. Williams. When she elected to not have Mr. Colson represent her in the matter she thought she would pursue, he had a duty to return her property to her. He did not do so.

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

1. That Mr. Colson's conduct violated Rule 1.16(d), because in spite of requests for return of her medical records after she elected to not have Mr. Colson represent her in her legal matter, Mr. Colson failed to return Mrs. Williams' medical records to her for well over a year which was not in such a manner as to protect her interests. Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering paper and property to which the client is entitled.

2. That Mr. Colson's conduct violated Rule 8.1(b), Mr. Colson failed to respond to the request for information sent to him from the Office of Professional Conduct on September 20, 2011, to his address of record maintained by the Arkansas Supreme Court Clerk's office. Rule 8.1(b) requires, in pertinent part, that a lawyer in connection with a disciplinary attorney disciplinary shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on

Professional Conduct, acting through its authorized Panel A, that DONALD W. COLSON, Arkansas Bar ID# 2005166, be, and hereby is, REPRIMANDED for his conduct in this matter. For his failure to respond to the disciplinary complaint after service, Mr. Colson is also sanctioned separately by imposition of a REPRIMAND and a fine in the amount of FIVE HUNDRED DOLLARS (\$500). In addition, pursuant to Section 18.A of the Procedures, Mr. Colson is assessed the costs in this matter in the amount of FIFTY DOLLARS (\$50). The fine and costs, TOTALLY FIVE HUNDRED FIFTY DOLLARS (\$550) 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 Walker, Chair, Panel A

Date: 3/26/13

Original filed with the Arkansas Supreme Court on
June 3, 2013.

(11.A, Rev 5-26-11)