

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

IN RE: DONALD W. COLSON, Respondent
Arkansas Bar ID#2005166
CPC Docket No. 2012-085

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Debbie Andrews in an Affidavit dated December 12, 2012. The information related to the representation of Debbie Andrews by Respondent in 2011.

On February 4, 2013, Respondent was served with a formal complaint, supported by affidavit from Debbie Andrews. 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 that that Donald W. Colson, an attorney then practicing primarily in Benton, Saline County, Arkansas, was hired by Ms. Andrews to represent her in a paternity / visitation / child custody matter, which was being pursued by the father of Ms. Andrews' minor child.

During February 2011, Ms. Andrews hired and paid Mr. Colson to represent her in the matter which was pending in Saline County Circuit Court. Ms. Andrews paid Mr. Colson a total of \$1,000 for his representation of her. There was no contract for employment or written fee agreement. Mr. Colson promised Ms. Andrews that he would mail the receipts to her but he never did so. Mr. Colson was hired after Ms. Andrews' previous attorney, Gene Adams, was

relieved as her counsel on February 25, 2011. Mr. Adams supplied Mr. Colson with Ms. Andrews' entire file of about 200 pages, including many original documents.

Mr. Colson actually made his appearance as Ms. Andrews' counsel two (2) days before Mr. Adams was ordered relieved by Judge Herzfeld. On the day he made his appearance, Mr. Colson also filed a Motion for Continuance. On March 8, 2011, a paternity judgment was entered in favor of Mr. Burnett, the father of Ms. Andrews' minor child. Shortly thereafter, Mr. Burnett's visitation was suspended because he was incarcerated. After Mr. Burnett was released from his incarceration, Ms. Andrews contacted Mr. Colson to let him know that Mr. Healy, Mr. Burnett's counsel, would probably be contacting him if he had not done so already. A week after Ms. Andrews sent the e-mail to Mr. Colson, a Motion to Reinstate Visitation was filed by Mr. Healy. Mr. Colson filed a Response on Ms. Andrews' behalf on August 25, 2011.

Ms. Andrews continued to e-mail and try to reach Mr. Colson after he filed the Response on her behalf, but she received no responses. At one point, Mr. Colson told Ms. Andrews that he and Mr. Healy were attempting to obtain a court date for a hearing on the pending matters. Ms. Andrews had information she wanted to provide to Mr. Colson for use in any subsequent hearing but she could not reach Mr. Colson in order to meet with him and provide the information to him.

Because Ms. Andrews was unable to reach Mr. Colson in any fashion, she hired other counsel to assist her. Mr. Weber, Ms. Andrews' new counsel, and Ms. Andrews, both attempted to obtain a copy of Ms. Andrews' file from Mr. Colson, with no success. Mr. Colson simply failed to respond to any requests for the return of the file

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 1.4(a)(4), because Mr. Colson failed to comply with requests for information left for him by Ms. Andrews after August 25, 2011, when Mr. Colson filed a Response to the Motion to Reinstate Visitation in the pending custody matter involving Ms. Andrews' minor child. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

2. That Mr. Colson's conduct violated Rule 1.16(d), when Mr. Colson decided to not continue to represent Ms. Andrews, as the facts clearly indicate he decided, Mr. Colson did not give notice to Ms. Andrews and then failed to return the contents of her file to her in spite of requests for him to do so. 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 giving reasonable notice to the client and refunding any advance payment of fee or expense that has not been earned or incurred.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that the Arkansas law license of DONALD W. COLSON, Arkansas Bar ID# 2005166, be, and hereby is, SUSPENDED FOR A PERIOD OF TWELVE (12) MONTHS for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In addition, pursuant to Section 18.C of the Procedures, Mr. Colson is ordered to pay restitution for the benefit of Ms. Andrews in the amount of ONE THOUSAND DOLLARS (\$1,000). For his failure to respond to the formal disciplinary complaint following

proper service, Mr. Colson is additionally and separately sanctioned by imposition of a REPRIMAND and a fine in the amount of FIVE HUNDRED DOLLARS (\$500), pursuant to Section 18.B of the Procedures. Pursuant to Section 18.A of the Procedures, Mr. Colson is assessed the costs of this proceeding in the amount of FIFTY DOLLARS (\$50). The fine, restitution, and costs, totaling ONE THOUSAND FIVE HUNDRED AND FIFTY DOLLARS (\$1,550), 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: March 26, 2012

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

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