

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

IN RE: **PAUL N. FORD** - Respondent Attorney
Arkansas Bar ID # 87060
CPC Docket No. 2013-046

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Paul N. Ford of Jonesboro, Craighead County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Dorothea Finnie. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011).

1. In January 2011, Dorothea Finnie (Finnie) made an appointment to speak with Paul L. Ford (Ford) about pursuing a possible medical malpractice claim against an emergency room doctor. Finnie claimed that she had lost all of the hearing in her right ear after the doctor treated her for an earache in March 2010.

2. On January 5, 2011, Finnie and Ford entered into an "Agreement Upon Investigation" (Agreement). Ford agreed to "investigate a potential medical malpractice action against Five Rivers Medical, based upon the potential medical malpractice action stemming from medical treatments rendered on or about 3/27/2010."

3. Paragraph three of the Agreement states as follows:

Upon determining to his satisfaction that there is a viable medical malpractice action, client and attorney agree to execute a standard attorney fee agreement, a copy of which is attached hereto as Exhibit A and incorporated herein by reference. That in the event that attorney determines, to his satisfaction, that there is not a viable medical malpractice action, all records will be returned to the client, and attorney will owe no other ethical or professional responsibility to client as a result of the alleged medical malpractice action on the date aforesaid.

4. The Agreement is signed by Ford and Finnie and Finnie is identified as “client.”

5. Attached to the Agreement is an unsigned “Retainer Contract and Notice of Lien.”

6. Finnie also signed an “Authorization for Release of Information,” authorizing Ford to receive information from her medical records within the last two years.

7. On January 10, 2011, Ford’s legal assistant sent separate letters to two physicians and Five Rivers Medical Center requesting complete copies of Finnie’s entire chart and billing information.

8. After her initial consultation with Ford, Finnie called and visited his office numerous times but was told by a secretary that Ford was not available to speak with her. Ford also failed to return Finnie’s phone calls. As a result, Finnie filed a grievance with the Office of Professional Conduct (OPC) on January 7, 2013.

9. In response to an inquiry from OPC, Ford acknowledged that he made efforts to obtain Finnie’s medical records and he discussed the matter with a doctor. According to Ford, he determined that he did not wish to proceed with Finnie’s case. In his letter to OPC, dated March 1, 2013, Ford states:

It is my recollection that I discussed this decision with Ms. Finnie by phone. However, I cannot confirm this. It is my usual practice to discuss these matters with the client by phone, or in person, and then

confirm the decision in writing. Sadly, there is no letter in my file to confirm the recollection of the phone call.

Recently, Ms. Finnie contacted my office and scheduled an appointment. Upon reviewing her file, I discovered that I had not written her a letter to tell her I did not wish to proceed with her case. I also learned the statute of limitations had run on her claim. It was my intention to inform her of this when I saw her face to face. It was also my intention to advise her that I had malpractice coverage and that she should seek independent legal counsel on this matter.

10. After being informed that OPC did not object to him contacting Finnie, Ford voluntarily provided Finnie with the contact information for his malpractice insurance carrier by a letter dated March 5, 2013.

11. As of the date of her affidavit, Finnie has not filed a malpractice action against Ford, although she has contacted at least two attorneys about pursuing such a claim.

12. Under Arkansas law, all actions for medical injury shall be commenced within two (2) years after the cause of action accrues, with limited exceptions for injuries to minors and undiscovered foreign objects left in a patient's body. Finnie does not contend that any foreign objects are the cause of her injury. In his responses to OPC, Ford did not indicate that he found any evidence that Finnie's claim could be based on an undiscovered foreign object.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of Paul N. Ford violated Rule 1.1 in that after agreeing to investigate Finnie's potential medical malpractice claim, Ford failed to competently represent Finnie in that

he failed to file suit, or notify Finnie of his decision not to file suit on her behalf, prior to the running of the statute of limitations on her potential medical malpractice claim. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. B. The conduct of Paul N. Ford violated Rule 1.3 in that after agreeing to investigate Finnie's potential medical malpractice claim, Ford failed to act with reasonable diligence and promptness in that he failed to inform Finnie that he would not file suit on her behalf and, as a result, the statute of limitations expired on Finnie's potential claim. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Paul N. Ford violated Rule 1.4(a)(3) in that Ford failed to keep Finnie reasonably informed that he would not file a lawsuit on her behalf and, as a result, the statute of limitations expired on Finnie's potential medical malpractice claim. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Ford and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **PAUL N. FORD**, Arkansas Bar No. 87060, be, and he hereby is, **CAUTIONED** for his conduct in this matter and assessed \$50.00 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 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, Chairperson, Panel A

Date: September 23, 2013

Original filed with the Arkansas Supreme Court on
September 25, 2013.