

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

IN RE: **JOSH QUINCY HURST**, Respondent
Arkansas Bar ID #2004016
CPC Docket No. 2014-043

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Josh Quincy Hurst of Hot Springs, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Thomas Landis of Lawton, Oklahoma in 2010. Following Hurst's receipt of the formal complaint, he 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 2009, Landis was in need of a lawyer in a case in Montgomery County involving a dispute where a Property Owners Association (POA) had sued Landis.

2. Landis employed an area attorney who filed Landis' Answer and other pleadings.

3. The first attorney was experiencing health problems which prevented him from continuing the representation. Landis was notified his attorney was turning the case over to Josh Hurst of Hot Springs.

4. On November 5, 2009, Landis and his wife traveled to Hot Springs from Lawton, OK, almost 400 miles, met with Hurst, and discussed the POA case. Hurst agreed to represent Landis in the case for what Landis understood to be a flat fee of \$2,500.

5. On November 9, 2009, Landis mailed to Hurst the \$2,500 Hurst required to

undertake the representation. The check cleared Landis' bank on November 16, 2009.

6. On November 10, 2009, Landis sent an email to Hurst asking that he confirm his entry of appearance for Landis into the lawsuit. Landis received no response from Hurst to the confirmation of receipt of check or the confirmation of entry of appearance.

7. Landis called Hurst's office several times requesting that Hurst call to discuss the case. Landis received no returned calls.

8. On December 29, 2009, Landis called Hurst and left a message for him to call Landis.

9. On January 4, 2010, Landis called Hurst and left a message for him to call Landis.

10. Becoming worried about the status of the Montgomery County lawsuit, on January 4, 2010, Landis drove from Lawton to Mount Ida and went to the Montgomery County Circuit Clerk's office to look at the case file. Nothing was shown on the docket or in the case file as having been filed on his behalf by Hurst.

11. On January 5, 2010, Landis went to Hurst's office to meet with him and was told that Hurst was "unavailable." Landis requested a copy of his case file but was told he could not have the file. Hurst's secretary stated that she would have him call Landis, but Landis did not receive a telephone call from Hurst.

12. Later on January 5, Landis drove to Little Rock and met with attorney Bruce Tidwell at Friday, Eldredge & Clark to discuss the POA case. Landis employed Tidwell, eventually paying him and his firm almost \$8,800 in fees and expenses in the POA case. Tidwell stated that he would contact Hurst and get the Landis file.

13. On January 5, 2010, Tidwell contacted Hurst by emailed letter, notified him of

Tidwell's substitution as Landis' new counsel in the Montgomery County POA case, and requested Hurst provide him with a copy of the Hurst file on the Landis matter. Tidwell specifically informed Hurst that depositions were fast approaching on January 28 and trial was set for February 19, 2010.

14. By emailed letter of January 8, 2010, Tidwell provided Hurst a copy of the Order approving substitution of counsel and again requested a copy of the Hurst file on the POA matter, restating the tight time frame within which Tidwell was operating.

15. On January 8, 2010, Tidwell entered his appearance in the Montgomery County Circuit Court case.

16. On January 8, 2010, Landis emailed Hurst and requested that the return of his \$2,500, as Landis felt Hurst had done nothing on behalf of Landis. Landis never received a reply from Hurst.

17. Being pressed for time, Tidwell ordered a copy of the POA case file from the Montgomery County Circuit Clerk and received it January 14, 2010.

18. Tidwell obtained the Landis-POA file from Hurst when Hurst mailed it to Tidwell on February 4, 2010.

19. The Montgomery County case was later settled and dismissed in April 2011.

20. On February 5, 2010, Landis filed a pro se lawsuit against Hurst in Hot Springs District Court seeking to recover the \$2,500 Landis paid Hurst plus expenses for two trips from Lawton to Hot Springs and to Mt. Ida.

21. On March 15, 2010, Hurst filed a pro se answer to the Landis lawsuit.

22. Landis employed Little Rock attorney Danny Crabtree for representation in the

district court case and he entered his appearance on April 13, 2010.

23. At trial on March 14, 2011, Special Judge Randy Hill from Arkadelphia, sitting for Judge Switzer who recused, granted judgment for Landis for \$1,825.00 plus \$110 costs, for a total of \$1,935.00. The Judgment was filed on March 29, 2011. Hurst has paid and satisfied the judgment.

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 B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of Josh Hurst violated AR Rule 1.3 in that Hurst failed to enter his appearance for Landis in the Montgomery County case after being employed and paid by Landis on November 9, 2009, with depositions set in January 2010, and with a trial date set for February 19, 2010, conduct by Hurst acting without reasonable diligence and promptness in representing a client. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. The conduct of Josh Hurst violated AR Rule 1.4(a)(3) in that between being employed on November 9, 2009, and January 5, 2010, when Landis discharged Hurst, with depositions set in January 2010, and with a trial date set for February 19, 2010, Hurst failed to keep Landis reasonably informed about the status of the Montgomery County POA lawsuit. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

C. The conduct of Josh Hurst violated AR Rule 1.4(a)(4) in that between being

employed on November 9, 2009, and January 5, 2010, when Landis discharged Hurst, with depositions set in January 2010, and with a trial date set for February 19, 2010, Hurst failed to promptly comply with Landis' several and reasonable requests for information about the status of the Montgomery County POA lawsuit. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

D. The conduct of Josh Hurst violated AR Rule 1.16(d) in that on January 5, 2010, while in the Hurst office, Landis requested a copy of his file in the Montgomery County POA lawsuit, did not receive a copy of any file, and was only able to obtain his file on February 5, 2010, when Hurst finally mailed it to Landis' new counsel, Bruce Tidwell, and then after Tidwell had been asking for the file since January 5, 2010. Arkansas Rule 1.16(d) requires that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

E. The conduct of Josh Hurst violated AR Rule 8.4(d) in that Hurst's failure to represent his client Landis caused Landis to have to employ and compensate new counsel (Tidwell) in the Montgomery County POA lawsuit, and was prejudicial to the administration of justice. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Hurst

and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **JOSH QUINCY HURST**, Arkansas Bar No. 2004016, be, and he hereby is, **REPRIMANDED** 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 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/Stephen R. Crane, Chairperson, Panel B

Date December 12, 2014

Original filed with the Arkansas Supreme Court on
December 12, 2014.