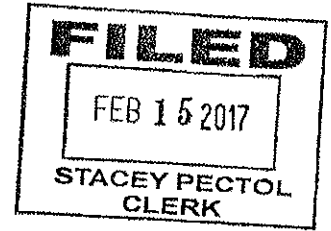


BEFORE THE ARKANSAS SUPREME COURT  
COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL A



IN RE: HAROLD DAVID ("H. D.") NATIONS, Respondent  
Arkansas Bar ID # 2013215  
CPC Docket No. 2016-139

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Cynthia Zarth (formerly Nelson) in September 2015. The information related to the representation of Zarth in a divorce by Respondent Harold David Nations (Nations), an attorney practicing primarily in Heber Springs, Cleburne County, Arkansas. On December 5, 2016, Respondent was served with a formal complaint, supported by the affidavit of Zarth. 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.

1. In May 2015, Zarth (Nelson) needed an attorney to file an uncontested divorce for her in Crittenden County, Arkansas. Nations of Heber Springs was recommended to her. She met with him and on May 11, 2015, employed and paid him by her check his quoted fee of \$1,000, which included a \$165 case filing fee.

2. Nations prepared court documents related to a divorce, including a proposed decree which resolved all issues in the marriage, which spouse James Nelson executed by June 1, 2015, in Tennessee. Zarth also signed the documents and then sent them to Nations.

3. Nations and Zarth had text communications from May 7, 2015, through September

19, 2015. By late July, Zarth was receiving texts from Nations indicating problems with the progress of her case.

4. In August 2015, Zarth relocated to Michigan, provided Nations her new address, and remained in regular contact with him by text messaging.

5. By text on August 31, 2015, Nations informed Zarth his mail to the court had been returned, and they would have to start the process all over. Nations mentioned to Zarth he was evaluating his choice of law as a career.

6. By text on September 18, 2015, Nations informed Zarth another attorney would be taking over the Zarth matter from Nations, as Nations was voluntarily surrendering his law license the next week. Nations declined to provide Zarth the name of any attorney who would be taking over her divorce matter.

7. Nations did not and has not surrendered his Arkansas law license.

8. Zarth found out Nations never filed her divorce in Crittenden County.

9. Zarth filed a grievance with the Office of Professional Conduct (OPC) on September 24, 2015.

10. Stark Ligon of OPC contacted Joe Denton, a Conway attorney and acquaintance of Nations, who agreed to assist Zarth in her divorce.

11. Denton updated Zarth's case documents, filed the Complaint for Divorce on January 8, 2016, and the final Decree was taken on March 10, 2016. Zarth does not know who actually paid the \$165 filing fee for her case. She does know Denton did not receive any funds directly from her.

12. The email from Denton to Ligon on August 30, 2016, reveals Nations sent Denton

a \$165 check but Nations' bank said it was not good. Denton paid for the Zarth filing fee from his own funds.

13. Zarth was informed that on July 2, 2016, Ligon requested Nations send her and other clients or former clients a letter. Zarth received no letter from Nations.

14. Zarth did not receive any refund of any unearned portion of the legal fees or a refund of the \$165 filing fee included in the \$1,000 she paid Nations in May 2015.

15. After his dealings with and abandonment of Zarth in September 2015, Nations continued to accept clients in at least three court matters in Cleburne County, the Martin, Osburne, and West cases.

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

A. The conduct of H. D. Nations violated Rule 1.1 in that on July 2, 2015, Nations informed his client Cynthia Zarth by text message he had mailed her executed divorce documents to the judge, and on August 31, 2015, informed her again by text that his mail to the judge had been returned because he improperly placed tape over the stamps. The facts indicate Nations likely never sent anything to the court or judge and certainly never filed anything in Crittenden County. 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 H. D. Nations violated Rule 1.3 in that after being paid and receiving Cynthia Zarth's executed divorce documents by email from her by June 1, 2015,

Nations was unable to get her new divorce case filed by mid-September 2015, when he abandoned her as a client. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of H. D. Nations violated Rule 1.16(d) in that (1) after receiving \$1,000 from Cynthia Zarth in May 2015, which included his legal fee and the \$165 filing fee for her divorce to be filed in Crittenden County, Nations failed to file her case, abandoned her as a client, and failed to account to Zarth for his use of her funds and failed to refund the unearned portion of his fee and the \$165 he held for her filing fee, and (2) Nations' attempt to transfer by check to Joe Denton, Zarth's new attorney, the \$165 for the filing fee failed because Nations did not have sufficient funds in his account to pay the check, resulting in Denton paying the filing fee from his funds. 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.

D. The conduct of H. D. Nations violated Rule 8.4(c) in that (1) Nations made a false statement by text message to his client Cynthia Zarth on July 20, 2015, when he informed her he had spoken with the judge's assistant that morning and he was informed the judge would be sending papers to us [Nations and Zarth] any day now. There is no evidence Nations mailed any Zarth documents to Crittenden County or any judge. Nations' text to Zarth on August 31, 2015, states that his mailing with her case documents had been returned

undelivered. (2) By text to Zarth on September 11, 2015, Nations informed her he had mailed her case documents to Crittenden County, would confirm their receipt there, and get back to Zarth. Since there is no evidence any divorce case for Zarth was ever filed by Nations in Crittenden County, his second mailing either never happened, which is a false statement to his client by Nations, or again failed to reach its destination if mailed. (3) Nations continued to take clients and file or enter their new matters in late 2015 and 2016 after he had abandoned Zarth as his client and had informed her he was voluntarily surrendering his law license. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

E. The conduct of H. D. Nations violated Rule 8.4(d) in that Nations accepted his full fee plus filing fee for Cynthia Zarth's divorce in May 2015, prepared a set of divorce documents for her, failed to file anything for her, and abandoned her by mid-September 2015, thus depriving her of the opportunity to timely obtain a divorce. 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, 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 **HAROLD DAVID NATIONS, Arkansas Bar ID# 2013215**, be, and hereby is, **SUSPENDED FOR SIXTY (60) MONTHS** for his conduct in this matter. Nations is also assessed standard case costs of \$50.00 and ordered to pay \$1,000.00 restitution for the benefit of Joe Denton. As a condition of his future reinstatement from suspension, Nations shall provide adequate proof of payment of the restitution. For his failure to file any response to the

Complaint, Nations is further sanctioned with a separate REPRIMAND.

The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court, and shall be concurrent from its effective date with any other suspension on Respondent now in effect or imposed. The costs and restitution 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: Steven Shults  
Steven Shults, Chair, Panel A

Date: January 24, 2017