

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

**IN RE: ASHLEY TOLLESON MORITZ
 ARKANSAS BAR ID #2010026
 CPC Docket No. 2021-004**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order arose are brought in reference to Ms. Moritz's representation of Mrs. Celia Vershay and her husband in a bankruptcy matter. Ms. Moritz is an Arkansas licensed attorney practicing primarily in Hope, AR.

1. In November 2017, Vershay discussed filing bankruptcy with Moritz, and she was quoted a \$1,600.00 fee, which Vershay paid in two separate payments. The first payment for \$800.00 was made December 5, 2017. The second payment for \$800.00 was made January 5, 2018.
2. Vershay provided Moritz with copies of the documents she requested. After submitting her documents, Vershay made several unsuccessful attempts to call Moritz.
3. Prior to the January 2018 payment, Vershay emailed Moritz when reaching her by telephone was unsuccessful and Moritz responded. Vershay advised Moritz in the email that she had been served papers for a lawsuit related to one of her vehicles. Moritz advised Vershay to leave the payment and documents in an envelope in her mailbox.
4. Vershay and her husband were sued in Hempstead County Circuit Court Case No. 29CV-17-274, by AmeriCredit Financial Services, Inc., in a suit for default of a contract for the purchase of a vehicle. The suit sought possession of the vehicle. The Vershays were served with the complaint on January 3, 2018.

5. On January 5, 2018, Vershay again emailed Moritz and asked what she should do about the complaint and summons she was served. Moritz advised her to not to do anything.

6. On January 15, 2018, Vershay emailed Moritz regarding whether she received the titles to the cars for the bankruptcy. Moritz responded in the affirmative and advised Vershay that she would let her know when Moritz had received a court date.

7. On February 5, 2018, Vershay again emailed Moritz regarding the car advising that she was still receiving calls and letters from the finance company. Moritz responded that same day that she would check on it.

8. On February 20, 2018, C again emailed Moritz about what was happening with her case. She advised Moritz that the car had been repossessed. Vershay asked for a status on her case. There was no response from Moritz.

9. Moritz never filed the bankruptcy case on the Vershay's behalf.

10. Vershay filed her grievance against Moritz with the Office of Professional Conduct ("OPC") in June 2018. Moritz was sent a first letter from the Office of Professional Conduct on July 16, 2018, requesting an informal investigative response to Vershay's grievance against her along with relevant documents. No response to that correspondence was received from Moritz.

11. On May 8, 2020, the Senior Staff Attorney for OPC sent Moritz an email along with a copy of the grievance and a copy of the July 16, 2018, letter, requesting Moritz respond by May 29, 2020. Moritz responded in writing by letter dated May 26, 2020, which was emailed on May 29, 2020, with a hard copy that followed in the mail.

12. In her written response to OPC, Moritz gave several reasons for her failure to file the Vershay's bankruptcy case. She also enclosed a check dated May 26, 2020, in the amount of

\$1,600.00, made payable to Celia Vershay for a refund of the fee monies paid to Moritz in late 2017, early 2018. That check was mailed by OPC to Vershay on June 9, 2020.

13. Moritz states that her workload increased dramatically to the point she could not handle it. She states she explained to some of her clients that she did not have time to handle their cases and prepared letters to such. However, Vershay was never notified. Vershay did not receive, at that time, a refund of the \$1,600.00 she paid, nor a return of her file.

14. Vershay acknowledged receipt of the check on June 11, 2020 and verified later it had cleared. She also advised that she never hired another attorney to file her bankruptcy and that she had no idea what happened to her vehicle after it was repossessed.

15. Moritz was contacted by email on November 2, 2020, requesting she provide a copy of the letter she sent to the Vershays in March 2018, and also proof such as a canceled check or some other proof that she also mailed a check to Vershays as she stated she did in her informal response to OPC.

16. When Moritz did not acknowledge or respond to the email, OPC Senior Staff Attorney contacted Moritz by telephone on November 3, 2020, at 1:30 p.m. Moritz was asked if she received the email and she responded in the affirmative. When asked about the information requested and whether she could provide the information, Moritz advised she does not know what happened to the files, as her office in March 2018 was packed up and moved out, and she was not the person who packed up the office. She cannot provide evidence to support her assertion to OPC that she mailed a letter and a refund check to the Vershays in March 2018.

Upon consideration of the formal complaint and attached exhibit materials and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Ms. Moritz's conduct violated Rule 1.1 when she (a) failed to prepare and file the bankruptcy petition of her clients, the Vershays, which resulted in the repossession of their vehicle and (b) failed to advise her client, Vershay, of the consequences of failing to file the bankruptcy and what would happen to their vehicle. Moritz advised them to take no action on the pending civil matter against them. Arkansas Rule 1.1 states a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Ms. Moritz's conduct violated Rule 1.3 when she failed to prepare and file the bankruptcy petition of her clients, the Vershays, which resulted in the repossession of their vehicle. Arkansas Rule 1.3 states a lawyer shall act with reasonable diligence and promptness in representing a client.

3. That Mr. Ford's conduct violated 1.4(a)(3) when she (a) failed to advise her client, Vershay, of her failure to file the bankruptcy case, even when asked multiple times about the matter and (b) failed to advise her client, Vershay, of what steps to take after being informed their car had been repossessed when Moritz failed to file the bankruptcy case. She informed them to take no action on several occasions when asked what they should do, and (c) failed to inform her client, Vershay, that because of the dramatic increase in Moritz's workload, she would not be filing their bankruptcy case. Arkansas Rule 1.4(a)(3) states that a lawyer shall keep the client reasonably informed about the status of the matter.

4. That Ms. Moritz's conduct violated Rule 1.4(a)(4) when she failed to respond to her client, Vershay's, February 20, 2018, email request about what was going on with the case. Arkansas Rule 1.4(a)(4) states a lawyer shall promptly comply with reasonable requests for information.

5. That Ms. Moritz's conduct violated Rule 1.4(b) when her clients were served with legal pleadings for return of their vehicle, Moritz advised her clients, the Vershays, to take no action in the matter, and did not explain the consequences of that advice to them, even though she had not filed their bankruptcy case. The Vershays' vehicle was then repossessed. Arkansas Rule 1.4(b) states a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

6. That Ms. Moritz's conduct violated Rule 1.16(d) when in 2018, Moritz failed to notify the Vershays of her decision to no longer represent them on their bankruptcy case. Moritz states she had her secretary mail a letter with a fee refund check, however, she never followed up with the Vershays or returned their file or refunded their monies to them at that time. She did not actually refund the monies until May 2020 when notified by OPC of the grievance filed against her. Arkansas Rule 1.16(d) states upon termination of representation, a lawyer shall take steps to the extent reasonably necessary 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.

7. That Ms. Moritz's conduct violated Rule 1.19(b)(1) when she did not maintain her client's files for the required period of time. Moritz does not know where the files are located as she was not the person who packed up her former office in 2018. Arkansas Rule 1.19(b)(1) states

a lawyer shall take reasonable steps to maintain the client's file in paper or electronic format for five (5) years after the conclusion of the representation in a matter.

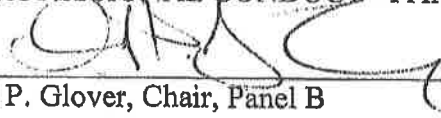
8. That Ms. Moritz's conduct violated Rule 3.2 when she failed to file for her clients, the Vershays, the bankruptcy petition within a reasonable time of being hired and failed to file after being notified that they were served with a civil suit seeking return of the vehicle and after being notified the vehicle had been repossessed. Arkansas Rule 3.2 states that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

9. That Ms. Moritz's conduct violated Rule 8.4(c) when she represents that she advised the Vershays in a written letter in March 2018 that she did not have the time to give their case the attention they deserved. Moritz also states she issued the Vershays a refund check at that time. Vershay states they were not notified that Moritz was no longer representing them, nor did they receive a return of their file. Moritz has not provided supporting documentation to support her claim made to OPC of mailing the Vershays a letter and refund check in March 2018. Arkansas Rule 8.4(c) states it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **ASHLEY TOLLESON MORITZ**, Arkansas Bar ID #2010026, be, and hereby is, **Reprimanded** for her conduct in this matter. In assessing this sanction, Ms. Moritz's lack of any prior disciplinary record was a factor. Ms. Moritz shall pay costs in the amount of FIFTY DOLLARS (\$50.00) in accordance with Section 18.A of the Procedures. The costs assessed herein totaling FIFTY DOLLARS (\$50.00) 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 B



David P. Glover, Chair, Panel B

Date: 6/22/21