

# ***2007 Annual Report***

***Arkansas Supreme Court***

***Committee on Professional Conduct  
&  
Office of Professional Conduct***

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Arkansas Judiciary Homepage

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## ***I. Introduction***

**Authority:** Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (“Procedures”), the Committee on Professional Conduct (“Committee”) is granted the authority to investigate all complaints alleging violation of the Arkansas Model Rules of Professional Conduct and impose any sanctions permitted and deemed appropriate. During 2002, major revisions to the Procedures adopted by Per Curiam Order of the Arkansas Supreme Court on July 9, 2001, effective on January 1, 2002, were implemented.

**History:** Amendment 28 to the Arkansas Constitution was adopted by the voters in 1938. The amendment placed with the Arkansas Supreme Court the authority to regulate the practice of law in Arkansas and to regulate, and thereby discipline, attorneys. In 1939 the Bar Rules Committee, an entity of the Arkansas Bar Association and the forerunner of the present Committee on Professional Conduct, was established. In 1940 the Canons for Professional Conduct of Lawyers was approved. The Arkansas version of the American Bar Association’s Model Code of Professional Responsibility was first adopted by the Arkansas Supreme Court in 1970. A revised version of the Code became effective July 1, 1976. The Arkansas version of the American Bar Association’s Model Rules of Professional Conduct was adopted by the Arkansas Supreme Court and became effective January 1, 1986. Various revisions have been made to the Arkansas version of the Model Rules since 1986. Comprehensive revisions became effective May 1, 2005, as the Arkansas Rules of Professional Conduct, now found at pages 1147-1267 of the 2007 Court Rules Volume of the Arkansas Code.

## ***II. Structure***

### **1. COMMITTEE ON PROFESSIONAL CONDUCT**

For the year 2007, the Committee continued to operate in the new model of three Panels established by the January 1, 2002, revisions to the Procedures. Each panel is composed of seven members appointed by the Arkansas Supreme Court. Five are lawyers, with one lawyer appointed from each Congressional District and one from the State at large. The remaining two positions are filled by persons who are not lawyers and are selected by the Arkansas Supreme Court from the State at large. Panel membership in 2007 was as follows:

Panel A:       Gwendolyn Hodge, Little Rock, Attorney at Large  
                  Win A. Trafford, Pine Bluff, Attorney, Fourth Congressional District  
                  Phillip Hout, Newport, (Panel Chair) Attorney, First Congressional District  
                  Steve Shults, Little Rock, Attorney, Second Congressional District  
                  Jerry Pinson, Harrison, Attorney, Third Congressional District  
                  Dr. Patricia Youngdahl, Little Rock, Non-attorney at Large  
                  Helen Herr, Little Rock, Non-attorney at Large

Panel B: Henry Hodges, Little Rock, Attorney, Second Congressional District  
J. Michael Cogbill, Fort Smith, Attorney, Third Congressional District  
Harry Truman Moore, (Panel Chair) Paragould, Attorney, First Congressional District  
(Mr. Moore's term ended December 31, 2007, and he was replaced by Barry Deacon of Jonesboro.)  
Valerie L. Kelly, Jacksonville, Attorney at Large  
John L. Rush, Pine Bluff, Attorney, Fourth Congressional District  
Dr. Rose Marie Word, Pine Bluff, Non-attorney at Large  
Sylvia S. Orton, Little Rock, Non-attorney at Large

Panel C: Honorable Kathleen Bell, Helena, Attorney, First Congressional District  
Kenneth R. Mourton, Fayetteville, Attorney, Third Congressional District  
Searcy Harrell, Jr., (Panel Chair), Camden, Attorney, Fourth Congressional District  
Professor Scott Stafford, Little Rock, Attorney, At Large  
Robert D. Trammell, Little Rock, Attorney, Second Congressional District  
Beverly Morrow, Pine Bluff, Non-attorney at Large  
Rita M. Harvey, Little Rock, Non-attorney at Large

2007 Executive Committee:

Win A. Trafford, Attorney, Committee Chair  
John L. Rush, Pine Bluff, Committee Secretary  
Phil Hout, Newport, Panel A Chair  
Harry Truman Moore, Paragould, Panel B Chair  
Searcy Harrell, Jr., Camden, Panel C Chair

Panel C primarily serves: (1) as the review panel for dismissals of complaints by the staff, (2) as a third hearing panel as needed, and (3) individual Panel C members are used as substitute panel members when a member of Panel A or B is not available or has disqualified in any case on a ballot vote or a hearing.

**2008 COMMITTEE MEETING CALENDAR:**

January 18, 2008	Panel A
February 15, 2008	Panel B
March 21, 2008	Panel A
April 18, 2008	Panel B
May 16, 2008	Panel A
June 20, 2008	Panel B
July 18, 2008	Panel A
August 15, 2008	Panel B
September 19, 2008	Panel A
October 17, 2008	Panel B
November 21, 2008	Panel A
December 12, 2008	Panel B

**2. OFFICE OF PROFESSIONAL CONDUCT**

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, which is housed in the Justice Building located on the Arkansas State Capitol grounds in Little Rock. The Office of Professional Conduct receives all complaints involving attorneys licensed to practice law in the State of Arkansas, investigates the complaints, provides assistance in the preparation of formal complaints, and processes formal complaints for submission to the Committee. The Executive Director for the Committee is Stark Ligon. The budget of the Committee and Office for 2007-08 is over \$650,000, totally funded by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

The Office of Professional Conduct is staffed by four staff attorneys, an administrative assistant, a secretary, and an investigator. The staff attorneys perform all duties and possess such authority of the Executive Director as the Executive Director may delegate, except for the final determination of sufficiency of formal complaints. The staff attorneys during 2007 were Nancie M. Givens - Deputy Director, Michael E. Harmon - Senior Staff Attorney, and Gwendolyn L. Rucker - Staff Attorney.

In calendar 2007, the staff presented a number of “continuing legal education” programs or speeches on law-related topics across the state.

The Arkansas Supreme Court has not authorized the Office of Professional Conduct to give advice or legal opinions, formal or informal, on legal or ethical issues to anyone. The Office does provide information, where it is available and can be done without being advice or legal opinion.

The Office of Professional Conduct also provides staff support for the Supreme Court Unauthorized Practice of Law Committee and the Supreme Court Client Security Fund Committee.

### ***III. Administration***

The Office of Professional Conduct receives telephone calls, letters, e-mails and faxes from individuals across the country requesting information on how to initiate complaints against attorneys licensed to practice law in the State of Arkansas. During the 2007 calendar year, the office sent 1,546 grievance forms to persons requesting one, down from 1,805 sent out in 2006.

During the 2007 calendar year, the Office opened new files on 819 grievances on attorneys alleged lawyer misconduct, up from 804 files opened in 2006.

In 2007, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2007 and carry-over cases from previous years, 784 files were closed:

### ***IV. Formal Actions Initiated***

In 2007, there were 140 new formal attorney discipline cases opened for the Committee on Professional Conduct for panel action, down from 156 new cases filed in 2006

### ***V. Final Committee Actions***

Final action was taken in 182 different files involving Arkansas attorneys during Calendar Year 2007 by the Committee on Professional Conduct and in three (3) discipline cases by the Arkansas Supreme Court. Of the 182 finalized cases in 2007, one (1) was a 2003 case, two (2) were 2004 cases, five (5) were 2005 cases, sixty-two (62) were 2006 cases, and 112 were 2007 cases. There are six primary forms of action that the Committee on Professional Conduct may take. Actions of the Committee are shown in the following table. A warning is non-public. The other forms of sanction are public.

**1. 2007 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries**

Type Action	Panel A	Panel B	Panel C	Total
No Actions	9	4	0	13
Warnings	29	12	0	41
Cautions	11	22	1	34
Reprimands	13	13	0	26
Suspensions	6	17	0	23
Interim Suspensions	1	1	0	2
Initiate Disbarment	2	3	0	5
Dismissed on motion	2	2	1	5
Abated by death	0	0	0	0
Voluntary resignations	2	1	0	3
Voluntary Inactive	0	0	0	0
Consents*	29	31	0	60
Consents denied*	2	0	0	2
To Involuntary Inactive	0	0	0	0
ARLAP Referral	3	0	0	0

\* This number is included in other types of dispositions

**2. SEVEN (7) YEAR STATISTICAL COMPARISON 2001-2007 (Unofficial)**

Category	2001	2002	2003	2004	2005	2006	2007
Discipline files opened	873	1,028	972	892	826	804	819
Closed by staff action	691	737	825	796	868	1137	784
Formal Complaints filed	149	186	200	164	159	156	140
Supreme Court Referrals	34	45	50	40	34	39	50
Other Judicial Complaints	13	12	12	8	8	19	6
Other from Court Records				24	7	16	9
Formal Complaints closed	135	178	185	211	181	173	182
No Actions	12	30	15	24	18	19	13
Warnings	45	53	54	38	33	53	41
Cautions	14	31	28	53	41	29	34
Reprimands	26	35	37	36	31	30	26
Suspensions	19	14	20	9	17	12	23
Surrenders	13	5	5	11	6	7	1
Merged into surrender		1	14	29	5	4	0
Disbarments initiated	6	3	3	3	7	2	1
Disbarments ordered (SCt)		0	0	3	0	2	2
Reinstatements granted	3	3	8	10	13	11	6
Consent dispositions	13	35	54	71	51	64	
ArLAP Referrals	N/A	2	0	0	1	3	0
# Attys Publicly Sanctioned*	57	61	72	101	102	68	67

\* includes several attorneys with multiple separate sanctions

N/R - not recorded. Some of this information is available from a manual review of old files, but limited staff time and other priorities has not allowed it to be compiled yet.

## ***VI. 2007 - Most Common Rule Violations***

In the 2007 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Model Rules 1.3 and 8.4(d). Model Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client. Model Rule 8.4(d) states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice. The following listing contains the Arkansas Model Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the ten most frequently violated Rules.

Arkansas Rule #	# Alleged	# Found	Rank (# Found)
1.1	58	25	5
1.2(a)	32	16	8
1.3	92	51	1
1.4(a)	18	7	
1.4(a)(1)	3	2	
1.4(a)(2)	4	1	
1.4(a)(3)	23	16	8
1.4(a)(4)	21	20	6
1.4(b)	18	7	
1.5(a)	1	0	
1.5(b)	3	1	
1.5(c)	2	2	
1.5(e)	0	0	
1.6	0	0	
1.7(a)	0	0	
1.7(b)	1	0	
1.8(a)	1	0	

1.8(b)	0	0
1.8(c)	1	1
1.8(e)	0	0
1.8(f)	1	0
1.8(h)(1)	1	1
1.8(h)(2)	1	1
1.8(j)	0	0
1.9(a)	1	0
1.9(b)	0	0
1.9(c)	0	0
1.10(a)	0	0
1.11	0	0
1.11(b)	0	0
1.12(a)	0	0
1.15(a)	6	6
1.15(a)(1)	0	0
1.15(a)(3)	1	0
1.15(a)(4)	2	2
1.15(a)(5)	0	0
1.15(b)	3	2
1.15(c)	0	0
1.15(d)	0	0
1.15(f)	0	0
1.16(a)	2	0
1.16(b)	0	0

1.16(d)	19	18	7
2.1	0	0	
3.1	5	1	
3.2	6	4	
3.3(a)(1)	11	8	
3.3(a)(2)	1	1	
3.3(a)(4)	1	1	
3.4(a)	2	1	
3.4(b)	1	0	
3.4(c)	44	29	3
3.5(a)	0	0	
3.5(b)	0	0	
3.7	0	0	
4.1(a)	1	0	
4.1(b)	1	0	
4.2	0	0	
4.4	7	4	
5.1	2	0	
5.2	0	0	
5.3	2	1	
5.4(a)	0	0	
5.4(b)	0	0	
5.5(a)	14	11	10
5.5(b)	0	0	
7.1(a)	0	0	
7.2(d)	0	0	

7.3(a)	1	0	
7.3(b)	0	0	
7.4	1	0	
7.4(d)	1	1	
8.1	1	1	
8.2(a)	0	0	
8.2(b)	0	0	
8.4(a)	3	0	
8.4(b)	5	3	
8.4(c)	39	26	4
8.4(d)	109	49	2
8.4(g)	0	0	
8.5	0	0	

## ***VII. “Practice Aging” of Attorneys Disciplined (2006)***

Of the 2007 final disciplinary actions by the Committee, nineteen (19) involved attorneys who had been licensed for ten years or less; forty-three (43) involved attorneys who had been licensed for eleven to twenty years; thirty-three (33) involved attorneys who had been licensed for twenty-one to thirty years; twenty-three (23) involved attorneys who had been licensed for thirty-one to forty years and none involved attorneys who had been licensed for more than forty years.

Years licensed	# of attorneys disciplined	Percentage
1-10	19	16.10%
11-20	43	36.44%
21-30	33	27.97%
31-40	23	19.49%
40+	0	0%

## ***VIII. 2007 FINES, RESTITUTION & COSTS ASSESSED***

	Imposed	Collected
1. Fines	\$29,500.00	11,250.00
2. Restitution	\$84,344.36	76,997.83
3. Costs	\$5,574.75	4,173.50
Total	\$119,419.11	92,421.33

(Note: some of the collections in 2007 were assessed in cases finalized in earlier years.)

## ***IX. 2007 Trust Account “Overdraft” Reporting***

64 Total reports received in 2007 from all banks and reporters  
(compared to 46 in 2006)

2007 and earlier reports reviewed by staff in 2007 and actions taken include:

58 Closed by private letter disposition  
6 Still open files - under investigation  
1 Formal complaints filed  
0 Public sanction

[Note: the numbers do not always “balance” between reports received and reasons for complaints as occasionally there will be more than one report on the same occurrence, as where more than one check is dishonored, or paid, as a result of the same trust account act or omission.]

The overwhelming majority of overdraft reports were due to some for of “attorney/firm error” such as bookkeeping math mistakes, failure to make timely deposits of settlement funds, release of settlement checks to clients and third parties before settlement funds were available in the trust account, depositing checks into the wrong account, failure to account for IOLTA interest withdrawals or bank service fees, client fee and expense checks bouncing, etc. Some admitted bank errors are reported.

## APPENDIX A - 2007 "PUBLIC" ATTORNEY DISCIPLINE SUMMARIES

(Listed alphabetically by attorney name within sanction category)

### **DISBARRED:**

**DARRELL F. BROWN, SR., Bar No. 72012**, of Little Rock, Arkansas, was disbarred and his name removed from the registry of attorneys licensed by the State of Arkansas by Arkansas Supreme Court Per Curiam Order issued March 8, 2007, in No. 05-592. The Per Curiam recites that, in the disbarment proceeding, Special Judge John Cole made a report to the Court with his findings of fact and a recommendation for the sanction of disbarment. Mr. Brown did not file a brief challenging the report, which was accepted by the Court and a final order of disbarment was granted. In part, Judge Cole found numerous instances of "serious misconduct" including matters where Mr. Brown converted or misappropriated funds from several clients. His acts have resulted in several awards to date from the Supreme Court Client Security Fund to those former clients.

**B. JOE THOMSON, Bar No. 69098**, of Houston, Texas, was reciprocally disbarred by Arkansas Supreme Court Per Curiam Order filed October 4, 2007, in No. 07-914, as a result of his prior disbarment in Texas. Mr. Thomson was disbarred by the State Bar of Texas on September 30, 2004. The information related to the Judgment of Disbarment was received by the Office of Professional Conduct from the Chief Disciplinary Counsel for the State Bar of Texas on May 24, 2007. The Judgment of Disbarment showed that Mr. Thomson had violated Rules 3:01; 4:04(b)(1); and 8:04(a)(3) of the Texas Rules of Professional Conduct. Having been disbarred in Texas and having been licensed in Arkansas some twenty-five (25) years before his disbarment in Texas, the Arkansas Supreme Court disbarred Mr. Thomson from the practice of law in Arkansas pursuant to Sections 14.A and B of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. (2002)

### **DISBARMENT INITIATED:**

**OSCAR A. STILLEY, Bar No. 91096**, of Fort Smith. Panel B voted on December 14, 2007, in No. CPC 2006-067, a complaint from Judge James Marschewski of Fort Smith and others, to initiate disbarment proceedings against Mr. Stilley for violations of Rules 3.1, 3.3(a)(1), 3.4(c), and 8.4(d). The Panel also voted to place Mr. Stilley on interim suspension during the pendency of the disbarment proceeding. The Order of Interim Suspension was filed and became effective December 27, 2007. The petition for disbarment was filed January 16, 2008, as No. 08-073.

**HORACE A. WALKER, Bar No. 82169**, of Little Rock. Panel B voted on December 14, 2007, in No. CPC 2007-095, a complaint from Mr. and Mrs. Theodis Dodson, to initiate disbarment proceedings against Mr. Walker for violations of Rules 1.2(a), 1.3, 1.4(a), 1.5(c), 1.15(a), 1.15(b), 8.1(b), 8.4(b), and 8.4(c). Mr. Walker failed to file a response to the Complaint. The Panel also voted to place Mr. Walker on interim suspension during the pendency of the disbarment proceeding. The Order of Interim Suspension was filed and became effective

December 20, 2007. The petition for disbarment was filed January 15, 2008, as No. 08-071.

**SURRENDER OF LICENSE:**

**CHARLIE LEE RUDD, Bar No. 89087**, formerly of Hot Springs, Arkansas, had the surrender of his Arkansas law license accepted by the Arkansas Supreme Court in a Per Curiam Order issued February 22, 2007, in lieu of Mr. Rudd going forward in disbarment proceedings arising from Committee Case No. CPC 2006-153, based on Mr. Rudd's guilty plea on October 31, 2006, to a Class C felony criminal controlled-substance charge in Garland County Circuit No. CR-2005-555-4. A felony conviction is a basis for a violation of Rule 8.4(b) and is a "serious crime" and "serious misconduct" under the Court's Procedures, warranting disbarment as the sanction.

**SUSPENSION of LICENSE:**

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was suspended for twelve (12) months by Committee Consent Findings & Order filed April 2, 2007, on a Judicial Complaint by United States Chief Bankruptcy Judge Audrey Evans in Case No. 2006-043, for violation of Rules 1.1, 3.2, 3.4(c), 8.4(c), and 8.4(d). As a fairly newly-licensed (2004) and inexperienced attorney, Mr. Angeleri accepted employment in 150 new bankruptcy cases in a two week period prior to October 17, 2005, including approximately 107 new cases the weekend before October 17, 2005, all to be filed before the new bankruptcy law went into effect on October 17, 2005. He did not have staff sufficient to properly handle the intake, preparation, and filing of these cases, or the proper and timely maintenance of these cases after filing. As a result, major problems occurred in many of his new cases. The bankruptcy clerk's office and the trustee's office were required to spend much time and effort trying to help him get his cases properly filed, often without success. Several of his clients had their cases dismissed due to problems he caused. Several almost lost their right to seek protection under the bankruptcy law and to obtain a discharge of eligible debts.

Judge Evans determined it was necessary to conduct a hearing on February 6, 2006, to review the status of and problems in eight (8) of Mr. Angeleri's many pending cases. Narratives describing deficiencies for each of these eight cases are in the hearing transcript included in the Complaint. Judge Evans found that Mr. Angeleri violated Bankruptcy Rule 1006(b) by accepting payment of attorney's fees from clients prior to paying the filing fees and by making false statements in his petition filings as to whether he had accepted payment for services at the time. As a result of her examination of these cases, Judge Evans ordered Mr. Angeleri to disgorge to the Chapter 7 trustees all legal fees paid to him in these eight cases.

Mr. Angeleri responded to this complaint, and others arising from similar circumstances, that he accepted full responsibility for his actions and the results, that he was experiencing personal health problems during this time, that he was unaware at the time of his filing of the many bankruptcy petitions that the first funds he received from a client had to be applied to the bankruptcy filing fees, and that he had made restitution as ordered to his affected clients.

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was suspended for six (6) months by Committee Consent Findings & Order filed April 2, 2007, on a Judicial Complaint by United States Bankruptcy Judge James Mixon in Case No. 2006-065, for violation of Rules 1.15(a)(4), 3.3(a)(1), 8.4(c), and 8.4(d). Lisa Binns hired Mr. Angeleri on or about October 13, 2005, to file a Chapter 7 bankruptcy petition for her. By check she had paid him a total of \$559.00 by October 14, 2005, included \$209 for her filing fee and \$350 for his attorney's fee. He filed her Chapter 7 petition on October 16, 2005, and filed for her an Application to Pay Filing Fee in Installments, falsely stating she was presently unable to pay the \$209 filing fee, although she had paid him the full filing fee several days earlier. Even after a notice of non-payment to Mr. Angeleri by the Clerk, he failed to pay her filing fee by the time of her first meeting of creditors on November 28, 2005, resulting in the dismissal of her case that date for failure to pay the filing fee. On December 9, 2005, he filed a motion to reinstate her case and paid her \$209 filing fee by December 12, 2005. Her case was reinstated and on March 16, 2006, an Order was entered granting Ms. Binns her Chapter 7 discharge in bankruptcy.

She thereafter wrote Judge Mixon about her case, causing him to file an Order April 12, 2006, to reopen her case, when questions were raised about Mr. Angeleri's conduct in representing Ms. Binns. A hearing was conducted April 21, 2006, at which Ms. Binns and Mr. Angeleri testified. Judge Mixon's Order from the hearing addressed Mr. Angeleri's conduct, including finding that he made a false statement to the Court in filings in the *Binns* case with regard to the payment status of her filing fee. His testimony at the April 21, 2006, hearing indicated he did not use proper trust accounting procedures for his attorney trust account, having no documentation by which he could track payments made by specific clients that were deposited into his trust account, and no ledger sheets, or equivalent documentation, by which he could accurately determine the status of any individual client's funds held in his trust account.

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was suspended for six (6) months by Committee Consent Findings & Order filed April 2, 2007, on a Judicial Complaint by United States Bankruptcy Judge James Mixon in Case No. 2006-066, for violation of Rules 1.15(a)(4), 3.3(a)(1), 8.4(c), and 8.4(d). Dionne Ersery hired Mr. Angeleri on or about September 15, 2005, to file a Chapter 7 bankruptcy petition for her. By check she paid him a total of \$559.00 on September 15, 2005, which included \$209 for her filing fee and \$350 for his attorney's fee, per his Attorney Fee Agreement with her of that date. On October 16, 2005, he filed her Chapter 7 petition, which did not contain her signature on the petition, as required by Bankruptcy law and regulation. Mr. Angeleri has not produced an original petition signed by her from his file. On October 16, 2005, he filed for her a Statement Pursuant to Rule 2016(B), stating he had received \$350 from her as his legal fee, but nothing on her filing fee. The statement about having received nothing from her on the \$209 filing fee was a knowing, false statement by Mr. Angeleri, as he had received the \$209 for the filing fee in her check on September 15, 2005.

Even after a notice of non-payment to him by the Clerk in the Order Regarding Deficiencies dated October 20, 2005, Mr. Angeleri failed to pay her filing fee, resulting in the dismissal of her case by Order on December 12, 2005. On December 22, 2005, Mr. Angeleri

filed a motion to reinstate her case, claiming her filing fee was by then paid. Her motion to reinstate was to be heard on February 7, 2006, but Mr. Angeleri and she failed to appear and the Court denied the motion. A letter from Ms. Ersery was received by Judge Mixon on February 24, 2006, outlining problems she had with Mr. Angeleri and her case, and informing him of her payment history with Mr. Angeleri. On February 28, 2006, her new counsel, the Dickerson Law Firm, filed a motion to reinstate her case and a motion for Mr. Angeleri to disgorge attorney's fees. At a hearing conducted on April 12, 2006, at which Ms. Ersery testified, resulted in the entry of two Orders. On April 18, 2006, an Order was entered granting Ms. Ersery her Chapter 7 discharge in bankruptcy. By Order entered April 17, 2006, Mr. Angeleri was ordered to paid Ms. Ersery a total of \$1,200 in various fees, which he did by two checks issued to her in April 2006.

Judge Mixon then conducted another hearing on May 8, 2006, at which Mr. Angeleri testified about the *Ersery* matter. Mr. Angeleri made false statements to the Court in filings in the *Ersery* case with regard to the payment status of her filing fee. Mr. Angeleri's testimony at the May 8, 2006, hearing indicated he did not use proper trust accounting procedures for his attorney trust account, having no documentation by which he could track payments made by specific clients that were deposited into his trust account, and having no ledger sheets, or equivalent documentation, by which he could accurately determine the status of any individual client's funds held in his trust account.

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was suspended for three (3) months by Committee Consent Findings & Order filed April 2, 2007, on a Complaint filed by Pamela Cox in Case No. 2006-106, for violation of Rules 1.16(d) and 8.4(c). Pamela Cox of Russellville hired Mr. Angeleri on November 28, 2005, and paid him a partial fee payment (\$175) to file a Chapter 7 bankruptcy petition for her. By February 27, 2006, she had paid Mr. Angeleri a total of \$400, his total quoted fee of \$350 plus the \$50 required credit counseling fee. He never filed her petition. Mr. Angeleri closed his Little Rock office and she was thereafter unable to locate or contact him about her legal matter.

In August 2006, she hired Little Rock attorney Clarence Cash to file her Chapter 7, which he did on August 7, 2006. Mr. Angeleri promised to make a refund to her, and finally sent a check for \$175 to her through Mr. Cash on August 31, 2006. That check was replaced by Mr. Angeleri's personal check #1118 for \$350.00 dated September 12, 2006, which Mr. Cash forwarded to Ms. Cox on September 20, 2006.

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was suspended for three (3) months by Committee Consent Findings & Order filed April 2, 2007, on a Complaint filed by Tommy Bates in Case No. 2006-123, for violation of Rules 1.1, 1.3, 1.15(a), 1.15(b), 3.4(c), 5.5(a), and 8.4(c). Mr. Angeleri was a fairly newly-licensed attorney when Tommy Bates employed him in August 2004 to represent Bates in a personal injury claim. Mr. Angeleri settled Mr. Bates' claim in November 2004 for \$7,250.00. Mr. Bates did not recall seeing or receiving a settlement sheet or accounting from Mr. Angeleri at the time, when he received his "net share" \$1,271.50 check from Mr. Angeleri, a check that did not appear to be on Mr. Angeleri's trust

account. Medical bills from the collision did not get paid by Mr. Angeleri, as Mr. Bates thought was to happen. Mr. Bates consulted with another attorney and then filed a complaint against Mr. Angeleri in late November 2004. Mr. Bates was informed Mr. Angeleri's Arkansas law license was not in "good standing." Mr. Angeleri's 2004 Arkansas law license fee, due March 1, 2004, was not paid until January 27, 2005. Since his Arkansas law license was therefore automatically administratively suspended on March 2, 2004, for non-payment, Mr. Angeleri's actions for Mr. Bates in 2004 constituted the unauthorized practice of law at the time.

Mr. Angeleri issued three checks to pay Mr. Bates's bills. They were trust account check #1121 dated 1-31-05 for \$100.00 to Ft. Smith EMS, undated law firm check #1005 for \$692.50 to Ft. Smith EMS, and undated law firm check #1006 for \$62.00 to Radiology Svcs, P.A. The identical account number on all three checks indicated they were on Mr. Angeleri's trust account, although #1005 and #1006 do not indicate on the face of each check that they are drawn on a clearly-identifiable trust account, as required by AR Model Rule 1.15(a).

After being contacted by letter dated January 18, 2006, by the Office of Professional Conduct, Mr. Angeleri responded with a Memo dated February 15, 2006, in which he offered an explanation for the events in the Bates matter. Mr. Angeleri's explanation included the statement that "the \$697 is in the trust account awaiting word from Mr. Bates as to whom it should be issued to." On April 28, 2006, Mr. Angeleri faxed the Office of Professional Conduct a Bates settlement sheet Mr. Angeleri had prepared at some date. The sheet shows \$697 due to "Sterling Insurance."

After further communication involving Mr. Bates, the Office of Professional Conduct, and Mr. Angeleri, Mr. Angeleri determined that he should send Mr. Bates a \$697 check to clear up the settlement money issue. His check #1086 to Mr. Bates dated June 14, 2006, for the \$697, on what appears to not be any trust account, was deposited twice by Mr. Bates and dishonored for insufficient funds both times. On October 5, 2006, Mr. Bates finally received the last \$697 which Mr. Angeleri admitted should have been in his trust account and have been distributed earlier to either Mr. Bates or one of his third party providers.

**WILLIAM SCOTT DAVIDSON, Bar No. 81044**, of Jonesboro, Arkansas, was suspended for one (1) month, effective November 1, 2007, by Committee Consent Findings & Order filed August 20, 2007, in Case No. 2006-155, on a complaint filed by Ms. Jessie King (formerly Vinson), for violation of Rules 1.2(a), 1.3, and 1.4(b). This matter was originally brought to the attention of the Office of Professional Conduct (OPC) on January 9, 2006, when Ms. King filed a grievance against Mr. Davidson for failing to take action in her behalf on her pending joint Chapter 13 bankruptcy case, No. 01-bk-32360, with her former husband Terry Vinson. OPC had multiple contacts with Ms. King and Mr. Davidson and monitored the matter until a complaint was received from Judge Evans.

Using another attorney, Mr. and Mrs. Vinson filed a joint Chapter 13 petition on November 29, 2001, as No. 01-bk-32360. Their plan was confirmed and payments were made on

it for several years. After they divorced, Ms. Vinson moved to Mississippi and remarried. Mr. Vinson remained in Arkansas and continued to make their plan payments. The Vinson's original attorney was permitted to withdraw from their case on October 19, 2005.

After her divorce, Ms. King desired to convert her Chapter 13 case to a Chapter 7 liquidation case. She employed Mr. Davidson for that purpose and paid him his requested fee of \$350.00 on September 29, 2005, but he took no action for her. On January 24, 2006, OPC wrote Mr. Davidson, copying Ms. King, informing him of the filing of Ms. King's grievance against him. He took no action in her matter that she knows of from September 29, 2005, until January 30, 2006, when he filed a Notice to Convert to Chapter 7 for her in the original case, No. 01-bk-32360.

Major changes in the bankruptcy laws became effective on October 17, 2005, complicating and restricting the ability of debtors to make such conversions, according to Judge Evans's comments in the August 30, 2006, hearing. Unable to obtain satisfactory action from him, and after he asked her for another \$150 to convert her case from Chapter 13 to Chapter 7, on March 5, 2006, Ms. King wrote Mr. Davidson and asked him to refund her \$350 if he did not want to be her attorney, and asked for a reply within ten days. On May 16, 2006, Ms. King e-mailed Mr. Davidson and directed him to discontinue any actions that might currently be in process. Eight days later, and against her specific instructions, on May 24, 2006, Mr. Davidson filed a Motion to Deconsolidate Chapter 13 case for Ms. King in No. 01-bk-32360. The Motion was granted May 25, 2006, and Ms. King's now-separated Chapter 13 case continued under a new number, 06-bk-12088. Mr. Davidson failed to file a corrected mailing address for Ms. King, so all court documents were being sent to her old Jonesboro address, burdening her ability to receive these documents and track activity in her file.

By letter dated August 15, 2006, to Mr. Davidson, the Chapter 13 trustee informed him that Terry Vinson's Chapter 13 Plan, in No. 01-bk-32360, had a major problem, in that his plan would not pay out in the allowable sixty months. His plan had to be modified by September 14, 2006, to meet the "sixty month" requirement of bankruptcy law or be dismissed. Mr. Vinson then obtained new counsel, Joe Barrett, in early September 2006, to represent him in the needed Plan modification. On September 12, 2006, Mr. Barrett filed a Notice of Conversion to Chapter 7 for Mr. Vinson and filed an amendment to add creditors on October 9, 2006. Mr. Vinson's meeting with creditors was conducted on October 27, 2006, and he received his Chapter 7 discharge on January 5, 2007.

In her new separate case, No. 06-bk-12088, an Order Regarding Deconsolidation Deficiencies was entered May 26, 2006, directing Mr. Davidson to take the actions noted thereon, including filing Ms. King's schedules and statement of financial affairs, or her new case would be dismissed. The Certificate of Service for the Order shows Ms. Vinson's old Jonesboro address still listed as her address of record with the court. A clerk's docket sheet for the period May 26 - June 26, 2006, made available for this case, notes contacts between members of the clerk's office and Mr. Davidson that add detail and insight into what was being communicated at

the time.

Ms. King's case was dismissed by Order filed June 26, 2006, for failure to timely file her schedules and statement of financial affairs. On August 10, 2006, Ms. King filed her *pro se* Motion to Set Aside Order Dismissing Case, with six exhibits attached. Her Motion outlines and documents her efforts to deal with Mr. Davidson on this matter since she paid him the \$350 in September 2005. An earlier version of this Motion had been filed on July 27, 2006. At the August 30, 2006, hearing, at which both Ms. King and Mr. Davidson testified, the Court granted her motion and reinstated her separate Chapter 13 case, No. 06-bk-12088, to active status, filing its Order to that effect on September 15, 2006. Thereafter, Mr. Davidson again failed to file the required schedules and statement of affairs for Ms. King, and the case was dismissed again on October 10, 2006, the status in which it remains. Mr. Davidson entered into a thirty (30) day license suspension from another Committee case on November 1, 2006, so he was unable to perform any legal services for Ms. King after that date and until he was reinstated to good standing by the Committee on December 7, 2006.

Mr. Vinson has received a Chapter 7 discharge. Ms. King is left out of that case and her new, separate case is now twice-dismissed due to Mr. Davidson's failure to perform for her. Mr. Davidson made a \$350 refund to Ms. King at the August 30, 2006, hearing.

**LARRY G. DUNKLIN, Bar No. 81051**, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) years by the Opinion of the Arkansas Supreme Court in No. 04-661 filed January 18, 2007, in a disbarment proceeding filed for the Committee on June 9, 2004, on a complaint filed by First Magnus Financial Corporation of Arizona, in Committee Case No. CPC 2005-140, for violation of Model Rules 1.15(a), 3.4(c) and 8.4(c). In June 1999, Mr. Dunklin agreed to act as closing agent for a real estate transaction for property located in Tulsa, Oklahoma. The parties to the loan were Mark Kimbrough and First Magnus Financial Corporation. The mortgage and promissory note were signed on June 17, 1999, and Dunklin informed First Magnus that the documents had been executed. First Magnus then funded the loan by wiring \$80,001.51 to Dunklin's IOLTA account. A deed transferring the Tulsa property to Mark Kimbrough was filed with the Tulsa County Clerk on September 1, 1999. The Kimbrough mortgage was not filed with the Clerk until February 18, 2000. During the intervening period, two other mortgages and promissory notes were filed with the Clerk involving the same property.

First Magnus discovered that their mortgage and promissory note had not been timely filed and that it had lost priority to the other loans. Kimbrough defaulted on the note. First Magnus filed suit against Dunklin in Pulaski County Circuit Court for breach of fiduciary duties. Dunklin failed to respond to the lawsuit and a default judgment was entered against him for \$96,727.09, plus costs, post-judgment interest, and attorneys' fees. The Arkansas Court of Appeals affirmed the default judgment in October 2002. First Magnus deposed Dunklin to discover assets. During the deposition, Dunklin was asked whether he knew or had previously represented Kimbrough. Dunklin admitted that he knew Kimbrough but denied representing

him. Dunklin did represent Kimbrough in a 1992 criminal case. The opening balance for Dunklin's trust account on June 1, 1999, was -\$23.28. Following the receipt of the loan proceeds from First Magnus, Dunklin wrote checks from his trust account for "overhead," "cash," and for payment on a personal car loan. The closing balance for Dunklin's trust account on July 31, 1999, was -\$168.54.

**TIMOTHY ALAN GINN, Bar No. 93108**, of Marion, Arkansas, was suspended for six (6) months by Committee Consent Findings & Order filed June 15, 2007, on a Complaint filed by R. Jeffery Kelsey in Case No. 2007-032, for violation of Model Rules 3.4(c), 5.5(a), 8.4(a), and 8.4(c). Federal Express employed Ginn to represent it in commercial lawsuits. On October 31, 2006, Ginn's employment with Federal Express was terminated when he proffered, and Federal Express accepted, his resignation. C resigned because his Arkansas attorneys license had been administratively suspended on November 23, 2004, due to his failure to obtain the required hours of continuing legal education. Ginn did not report this fact to his supervising attorney at Federal Express until October 25, 2006. Further investigation revealed that Ginn's annual law license fee to the Arkansas Supreme Court, due by March 1 each year, was not paid for 2001 until June 15, 2001. Ginn practiced law in United States District Court during this time period when his Arkansas law license was administratively suspended.

**ALICE WARD GREENE, Bar No. 95197**, of North Little Rock, Arkansas, had her law license suspended for six (6) months, effective October 17, 2007, by Committee Findings & Order filed that date in Case No. 2007-044, on a complaint filed by LaDonna Marsh, for violation of Rules 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 3.2, 3.4(c), 8.4(c) and 8.4(d). In addition, Ms. Greene was ordered to pay \$750 restitution for the benefit of her former client. As a result of her failure to respond to the formal disciplinary complaint, Ms. Greene was Reprimanded and ordered to pay a \$500 fine. Ms. Marsh hired Ms. Greene to represent her in a divorce matter she wished to file in September 2006. Ms. Greene was paid her entire fee per her written fee agreement in October 2006. She was unavailable to Ms. Marsh many times that Ms. Marsh called for information about the legal proceeding. Ms. Greene did not keep Ms. Marsh informed of her actions, if any, in filing a divorce complaint. Ms. Greene allowed Ms. Marsh to believe that a complaint for divorce had been filed when, in fact, none had been filed by March 2007. Ms. Greene moved out of her office with notice to Ms. Marsh. Ms. Marsh left numerous messages on Ms. Greene's cell phone but the messages have not been responded to by Ms. Greene. In addition, the Committee had information before it that Ms. Greene failed to pay her bar dues by March 2, 2007 and also failed to complete her CLE requirements in 2006 which resulted in the automatic suspension of her license to practice law in Arkansas on March 2, 2007.

**TIMOTHY MARK HALL, Bar No. 96043**, of Huntsville, Arkansas, was suspended for (3) three months, ordered to pay restitution in the amount of \$2,500.00 and a fine in the amount of \$1,000.00 by Committee Findings & Order filed May 21, 2007, on a Complaint filed by Marlys and Don Ball in Case No. 2006-107, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(1), 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.4(c), and 8.4(d). Mr. Hall was hired to represent Marlys and Don Ball in a legal matter involving real property. Mr. and Mrs. Ball were landlocked and hired Mr. Hall to

assist them in obtaining relief. Mr. and Mrs. Ball had previously had access to their property which had become blocked by a locked gate. Mr. Hall agreed to assist the Balls. He advised them that he could obtain assistance for them in approximately two (2) weeks. Mr. Hall was paid \$2500 for the representation on December 22, 2005. That was the last occasion the Balls were able to speak with Mr. Hall. He did not return telephone messages and did not respond to correspondence left for him. In addition, Mr. Hall did not sign for the certified letter sent to him by Mr. and Mrs. Hall. Mr. Hall did not act diligently for the Balls. Further, Mr. Hall did not return the photos delivered to him by Mr. and Mrs. Ball nor did he refund any of the advanced payment of fee since the Balls hired other counsel to assist them with their legal issue. Mr. Hall did not pay his 2006 annual license fee until May 18, 2006. As such, he violated Rule VII of the Rules Governing Admission to the Bar of Arkansas. He also was prohibited from assisting Mr. and Mrs. Ball from March 2, 2006 until May 18, 2006 while his license was suspended. He did not advise the Balls of this fact.

**TIMOTHY MARK HALL, Bar No. 96043**, of Huntsville and Springdale, Arkansas, had his law license suspended for six (6) months, effective December 4, 2007, by Committee Findings & Order filed that date in Case No. 2006-040, on a complaint filed by Diana Refsell, for violation of Model Rules 1.3, 1.4(a), 1.16(d), 3.4(c) and 8.4(d). Mr. Hall was also fined \$1,000 for his conduct. Ms. Refsell hired Mr. Hall to represent her in the Estate proceeding involving her late father's Estate. Mr. Hall had previously represented her father before his death in various matters. Ms. Refsell was named the Administratrix with Mr. Hall acting as her counsel. Mr. Hall continually failed to keep Ms. Refsell informed of the matters involving the Estate and failed to return her requests for information. Mr. Hall did not file the required Inventory and Accountings. Ms. Refsell was unaware of all the problems at the time they were occurring, learning of them from a sibling and when she had a contempt action filed against her. After proceedings to remove Ms. Refsell as Administratrix, Mr. Hall failed to turn over the Estate file as directed by the Court until the morning of a "show cause" hearing. Ms. Refsell had to hire other counsel to represent her interests because Mr. Hall had, in effect, abandoned his representation of her.

**BARBARA A. KETRING-BEUCH, Bar No. 97074**, of North Little Rock, Arkansas, was suspended for six (6) months by Committee Findings & Order filed August 1, 2007, in Case No. 2006-170, on information provided to the Committee by Circuit Judge Alice Gray, for violation of Rules 1.1, 1.3, 3.4(c), 4.4(a), and 8.4(d). Ms. Ketring-Beuch represented Jakeeta Young in a divorce proceeding, Pulaski Circuit No. DR-2005-3584, styled *Jakeeta L. Young v. David C. Young*, before Judge Alice Gray. Mr. Young was represented by James W. Stanley. At a final hearing on May 11, 2006, which Ms. Ketring-Beuch attended with her client, Judge Gray granted a divorce to Defendant/Counter-Plaintiff David Young and made certain rulings regarding property issues. Mr. Stanley promptly prepared a proposed Decree of Divorce and mailed it to Ms. Ketring-Beuch on May 11, 2006, for her approval, along with an enclosed Quitclaim Deed for her client to execute and his trust check #4213 for \$11,395.33 from Mr. Young, payable to Jakeeta Young and Ms. Ketring-Beuch, for Ms. Young's share of the equity in the Young home. Ms. Ketring-Beuch failed to approve and return the Decree of Divorce and the properly executed

Quitclaim Deed. The check was endorsed by Ms. Young, Ms. Ketring-Beuch, and Leonard Boyle, Ms. Young's brother, and was given by Ms. Ketring-Beuch to Ms. Young to be negotiated, which she did, receiving all the funds represented by the check. On June 6, 2006, Ms. Ketring-Beuch acknowledged the signature of Ms. Young on the Quitclaim Deed and then stuck the deed in her office file, where it remained until December 7, 2006, when she discovered the deed and delivered it to Stark Ligon at the Office of Professional Conduct, after he contacted Ms. Ketring-Beuch about the Young matter. Mr. Ligon then forwarded the original deed to Mr. Stanley for his client's use.

On May 30, 2006, Mr. Stanley sent the proposed Decree of Divorce to Judge Gray, with copy to Ms. Ketring-Beuch, under the "five days to object" rule. On August 29, 2006, Mr. Stanley wrote Ms. Ketring-Beuch requesting approval and return of the Decree and Deed immediately, after a hearing on the non-entry of the Decree. Faced with no response from Ms. Ketring-Beuch, with the approval of Ms. Young, on October 10, 2006, Judge Gray appointed attorney Carrol Ann Hicks to represent Jakeeta Young for the purpose of getting a decree approved and entered. Ms. Hicks conferred with Ms. Young, approved the proposed Decree earlier prepared by Mr. Stanley, and submitted the Decree to Judge Gray by letter dated October 26, 2006. Judge Gray approved the Decree of Divorce on November 20, 2006, and caused it to be filed that same day. On November 22, 2006, Judge Gray referred the matter and Ms. Ketring-Beuch to the Committee for action, based on her failure to represent her client to the completion of the divorce matter.

**STEPHEN LEE LEWIS, Bar No. 2003112**, of Calico Rock, Arkansas, was suspended for (3) three months by Committee Findings & Order filed May 14, 2007, on a Complaint by Mindy Franks in Case No. 2006-159, for violation of Rules 4.4(a) and 8.4(c). Mr. Lewis altered a file-marked copy of a final divorce decree in the case of Mindy Franks v. Tommy Franks, IZARD Circuit No. DR-2004-191-4, added an unauthorized provision related to child care to it, and presented the altered divorce decree to the Calico Rock school authorities as a genuine order. In response to a letter from the Office of Professional Conduct, on November 10, 2006, he responded in writing basically admitting his conduct as alleged in Mindy Franks' Affidavit and attached exhibits.

**DAVID F. MOREHEAD, Bar No. 89143**, of Pine Bluff, Arkansas, was suspended for two (2) months, fined \$1,500.00, and ordered to pay \$410.00 restitution by Committee Findings & Order filed September 28, 2007, in Case No. 2007-046, on a complaint from John Franks, III, for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.4(c), 5.5(a), 8.4(c), and 8.4(d). Mr. Franks employed Mr. Morehead to file a Chapter 7 bankruptcy, and paid \$210.00 for the filing fee and \$200.00 for the attorney's fee on August 1 and September 12, 2005, respectively. The Petition was filed, as No. 05-bk-24533, on October 6, 2005, and an Order was sought and obtained allowing Franks to pay his filing fee in installments, even though Morehead already had received the filing fee funds. In filings with the court, Morehead also certified that he had received "\$0.00" funds from his client as of that date, a false statement. The first meeting of creditors ("341 meeting") was set for November 17, 2005. Morehead failed to timely pay a filing

fee for Franks. On November 25, 2005, an order was entered dismissing Franks's case, the file was closed, and there has been no action on his behalf in bankruptcy court since then. His filing fee was never paid. He contacted Morehead's office several times thereafter, unsuccessfully attempting to obtain information about the status of his case. Failing to obtain relief and protection from bankruptcy, GMAC auctioned off his truck and is now pursuing him for a deficiency judgment of \$16,265.00. Morehead has not refunded Franks's unexpended \$210 filing fee Morehead has held since November 2005, or any unearned portion of the attorney fee he was paid to handle this matter to completion.

Morehead failed to pay his 2006 Arkansas Supreme Court attorney's license fee, due by March 1, 2006, until June 6, 2006. He failed to pay his 2007 Arkansas Supreme Court attorney's license fee, due by March 1, 2007. As a result of these actions, his Arkansas law license was in automatic suspension status from March 2 - June 6, 2006, and since March 2007. He practiced law in bankruptcy court during these periods.

**DAVID F. MOREHEAD, Bar No. 89143**, of Pine Bluff, Arkansas, was suspended for two (2) months, fined \$1,500.0, and ordered to pay \$209.00 restitution by Committee Findings & Order filed September 28, 2007, in Case No. 2007-048, on a complaint from Jillian Parker for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.4(c), 5.5(a), 8.4(c), and 8.4(d). Jillian Parker and her mother, Cheryl Parker, went to Mr. Morehead in September 2005, seeking representation for their financial situation. He advised both to file for Chapter 7 bankruptcy protection and seek a discharge order. He told them that he required a \$208 or \$209 filing fee from each of them and would only charge \$250 for legal services to each, for a total fee of \$500. Cheryl Parker paid \$209 cash then for Jillian's case filing fee. At another meeting a short time later, Cheryl paid \$208 for her filing fee.

On October 15, 2005, Morehead filed for Jillian as No. 05-bk-28354. On October 16, 2005, he filed for Cheryl as No. 05-bk-28486. Cheryl later paid the \$250 for her legal fee. Cheryl's case proceeded without incident. Morehead paid Cheryl's \$209 filing fee to the clerk on January 12, 2006. She received her discharge order on January 24, 2006.

Morehead failed to pay Jillian's filing fee and her case was dismissed by order filed November 25, 2005, for failure to pay the filing fee. Thereafter there is no record in Jillian's case of his having taken any action to reopen her case or refile for her, or having paid any filing fee for Jillian. Jillian and Cheryl contacted his office several times for information about the status of Jillian's case, but they received no report, other than it was being worked on. Morehead was contacted by letter dated December 20, 2006, by the Office of Professional Conduct about Jillian's case, and others. In early January 2007, he contacted Jillian and told her he was working on her case, would get it refiled, and she would owe him no more money for the matter. There has been no activity in her bankruptcy file since December 6, 2005. By not taking any action in Jillian's case since December 6, 2005, he abandoned her as his client and effectively terminated the attorney-client relationship. He failed to refund any unused part of the \$209 filing fee he received, but did not pay to the clerk, for Jillian's case.

Morehead failed to pay his 2006 Arkansas Supreme Court attorney's license fee, due by March 1, 2006, until June 6, 2006. He failed to pay his 2007 Arkansas Supreme Court attorney's license fee, due by March 1, 2007. As a result of these actions, his Arkansas law license was in automatic suspension status from March 2 - June 6, 2006, and from at least March 2 - April 9, 2007. He practiced law in court during these periods.

**DAVID F. MOREHEAD, Bar No. 89143**, of Pine Bluff, Arkansas, was suspended for two (2) months, fined \$1,500.00, and ordered to pay \$209.00 restitution by Committee Findings & Order filed September 28, 2007, in Case No. 2007-058, on a complaint from Evelyn Crow for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.3(a)(1), 3.4(c), 5.5(a), 8.4(c), and 8.4(d). Ms. Crow went to Mr. Morehead about filing a Chapter 7 bankruptcy case. She was told the filing fee would be \$209.00. She paid \$100.00 on October 12, 2005, and the balance of \$109.00 on January 3, 2006. She gave him all the personal and financial information he requested. On October 13, 2005, in time to be under the old bankruptcy law which was expiring on October 17, 2005, he filed her petition and schedules as No. 05-bk-26197. She was notified of two court dates for her meeting of creditors. Morehead or his office told her to disregard the first date and to go on the second date. When she went to court on that date, believed to be December 15, 2005, she was told her case had been dismissed. She went to his office on January 13, 2006, and paid the \$109 balance she owed on her filing fee. She understood he was going to refile her case.

She went to his office several times up to mid-2006 checking on her case. She was usually told he was working on it. He re-entered her information in the computer on the case, but she never received any letter about going to court. She called his office a number of times about her case, but received no return calls. She went to his office on February 15, 2007, but was told he was not in and she was not provided any information about her case. The same thing happened to her on February 26, 2007. At this time, Morehead still has her papers and her \$209 for the filing fee, which he never expended for her case, and Ms. Crow has no case.

Mr. Morehead failed to pay his 2006 Arkansas Supreme Court attorney's license fee, due by March 1, 2006, until June 6, 2006. He failed to pay his 2007 Arkansas Supreme Court attorney's license fee, due by March 1, 2007, until May 16, 2007. As a result of these actions, his Arkansas law license was in automatic suspension status from March 2 - June 6, 2006, and from March 2 - May 16, 2007. He practiced law in bankruptcy court during these periods.

**PETER E. MORGAN, Bar No. 87121**, of Denver, Colorado, was reciprocally suspended for six (6) months by Committee Findings & Order filed July 20, 2007, in Case No. 2007-071, for violation of Colorado Rule 8.4(b) (engaging in criminal acts) and Rule 8.4(h) (engaging in conduct that directly, intentionally, and wrongfully harms others and that adversely reflects on a lawyer's fitness to practice law). In his proceeding in Colorado, Mr. Morgan stipulated that he was admitted in CO in 1973, that he was a recovering alcoholic between 1977 and 1998, when he began drinking again during his divorce, and that he drank almost daily from 1998 to June 2005, when he became alcohol-free. On June 11, 2005, he was involved in a motor vehicle accident at a

time when he had been drinking. On September 29, 2005, he was charged with hit-and-run injury, failure to give notice of an accident, failure to report an accident, and careless driving in this incident. On February 16, 2006, he pled guilty to careless driving, was fined \$177.00, and the charges were dismissed.

Also on June 11, he was involved in an altercation with a motorist at a McDonald's drive-through, after he "rammed" his vehicle into the forward vehicle. Morgan then used very bad words to the female driver, and she called for 911 and the police. Morgan grabbed her hair and hit her in the face. A female bystander who tried to assist the other driver was hit and knocked to the ground. Morgan then left the scene and awoke later on a grassy median strip surrounded by officers and paramedic. Morgan was charged and tried. He was convicted on April 17, 2006, of assault and disturbing the peace and sentenced to 365 days in jail, with 305 days suspended, 50 days of electronic monitoring, fined \$1,266, and placed on two years supervised probation. It also came out that Morgan had received a one year deferred judgment upon his conviction of misdemeanor assault and disturbing the peace in 2001 and that he had failed to report that conviction as required by law.

**VANCE BENTON ROLLINS, JR. Bar No. 75108**, of Hot Springs, and formerly of Camden, Arkansas, an attorney formerly practicing law primarily in Camden, Ouachita County, Arkansas, was placed on interim suspension from the practice of law by the Committee on Professional Conduct in case number CPC 2007-125, for an indefinite period effective November 27, 2007, pending the filing of formal discipline charges, as a result of his felony conviction in Circuit Court of Perry County, Arkansas, on October 31, 2007, in Case Number CR-2007-03, of two counts of the Class C felony Manslaughter, in violation of AR Code 5-10-104. The Interim Suspension was ordered pursuant to Sections 17.E(3)(c)(1) and 16.A(3) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. Mr. Rollins has also been convicted in late 2007 in Ouachita County Circuit Court on felony drug charges.

**JAMES W. STANLEY, Bar No. 75124**, of Little Rock, Arkansas, was suspended for five years by Committee Findings & Order filed April 24, 2007, in Case No. 2007-024. This reciprocal discipline was sought by the Committee pursuant to 14.A-B of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. Both the Social Security Administration (SSA) and the Department of Veteran Affairs (VA) notified the Office of Professional Conduct of disciplinary actions taken against Stanley. The SSA suspended Stanley from practice before it for five years on May 22, 2006, and Stanley's accreditation to practice before the VA was cancelled on October 10, 2001. The basis of Stanley's suspension before the SSA was its determination that he had (1) charged, collected, and retained fees in violation of SSA's rules; (2) deceived or knowingly mislead his client about benefits or other rights under the Social Security Act; and (3) knowingly made false or misleading statements of material fact concerning fee matters within SSA's jurisdiction. The basis for the cancellation of Stanley's VA accreditation was that Stanley had received illegal fees from four veterans for representation of them before the VA. This state discipline case is now on appeal as No. 07-845, set for oral argument May 8. The federal discipline case is now before the Eighth Circuit as No. 07-1895.

**OSCAR A. STILLEY, Bar No. 91096**, of Fort Smith, Arkansas, was suspended for six (6) months by Committee Findings & Order, in CPC 2002-077, which suspension was affirmed by the Arkansas Supreme Court by Opinion issued in No. 06-972 on June 21, 2007. The details of the case are in Vol. 41, No. 3, Summer 2006 edition of the Arkansas Lawyer, at pages 34-35. The mandate was issued, and this suspension became fully effective on February 25, 2008, after the United States Supreme Court denied Mr. Stilley's petition for writ of certiorari on in No. 07-779 on February 19, 2008.

**HORACE A. WALKER, Bar No. 82169**, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) months by Committee Findings & Order filed January 10, 2007, on a complaint filed by Gary Coulter of Mineral Springs, Arkansas, in Case No. CPC 2006-101, for violation of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.4(b), and 8.4(d). Mr. Coulter suffered a substantial back injury in a collision with a motor home on September 26, 2001, an event in which he was not at fault. By October 2001, he had hired Horace Walker to represent him, and on that date, Mr. Walker notified State Farm Insurance of his representation. Mr. Walker gathered medical records and was in frequent correspondence with State Farm into mid-2003. In August 2003, State Farm wrote Mr. Walker with a \$20,000 settlement offer. Thereafter, Mr. Walker failed to settle the claim or to timely file suit to protect his client. Mr. Coulter had difficulty contacting Mr. Walker after mid-2003 and obtaining information about his claim. In September 2005, Mr. Walker sent Mr. Coulter a copy of his file. On September 26, 2005, Mr. Coulter filed a *pro se* Complaint in Miller County Circuit (No. CV-2005-353-2) against State Farm and the other driver, trying to salvage his claim. He failed, as the court granted a motion to dismiss his suit with prejudice in December 2005. Mr. Walker's failure to act in a timely and proper manner for his client cost Mr. Coulter any chance of settlement or recovery for injuries which were serious enough to cause his employer to retire him on disability in mid-2003.

**WOODSON D. WALKER, Bar No. 76135**, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) years on January 4, 2007, when the Arkansas Supreme Court, in No. 06-619, affirmed the Committee Findings & Order filed December 16, 2005, after a public hearing conducted on December 9, 2005, on a complaint filed by Reeshema Britt of Little Rock in Case No. CPC 2005-083, for violation of Model Rules 1.4(a), 1.4(b), 5.5(a), 8.4(c), and 8.4(d). Reeshema Britt of Little Rock was injured in a motor vehicle collision in February 2001, in which the other driver was at fault. She became Mr. Walker's client for this matter in August 2002. Mr. Walker's Arkansas law license was suspended in another matter effective April 21, 2003, for one year, and his license has never been reinstated. By June 11, 2003, Mr. Walker had received a settlement offer of \$5,500, which was declined by Ms. Britt, as shown by Mr. Walker's letter to her of that date on the letterhead of Larry Dunklin, his former partner or associate attorney in the firm of Walker & Dunklin.

Ms. Britt thereafter had substantial difficulty obtaining information from Mr. Walker or Mr. Dunklin about her matter. In April 2004, after the expiration of the statute of limitation for her claim, she learned no lawsuit had been filed in her claim. She consulted with attorney Luther Sutter. She then was able to meet with Mr. Walker in May 3, 2004. He told her he would try to

get the \$5,500 offer reinstated and her medical bills taken care of in some fashion, with him to receive a one-third fee of any recovery. She declined and hired Mr. Sutter to pursue relief. In August 2004, Mr. Sutter filed suit for legal malpractice against Mr. Dunklin and Mr. Walker in the Britt matter. On April 14, 2005, default judgment for \$75,000 was awarded against Mr. Dunklin and Mr. Walker in favor of Ms. Britt on her legal malpractice claim.

**NATHAN THOMAS WILLIAMS, Bar No. 98159**, now of Green Bay, Wisconsin, had his Arkansas law license suspended for twenty-four (24) months, effective October 2, 2007, by Committee Findings & Order filed that date in Case No. 2007-092, on a reciprocal discipline action from Illinois. The Supreme Court of Illinois ordered the suspension from the practice of law in Illinois of Nathan Thomas Williams, Illinois Registration No. 6276891, for a period of two (2) years, effective June 8, 2007. The information was received in the Office of Professional Conduct on August 17, 2007, from the Clerk of the Illinois Attorney Registration and Disciplinary Commission, and not from Mr. Williams. Mr. Williams is also licensed in the State of Missouri.

Mr. Williams' former spouse, Missouri attorney Margaret Murphy Williams, had reported the substantially similar conduct by Mr. Williams to Arkansas in July 2005, where it was assigned file #T2005-472. Upon notice that both Missouri and Illinois were pursuing the same conduct, which substantially occurred in Missouri, Arkansas held the complaint in abeyance pending action in one of the other states. Additionally, Mr. Williams' Arkansas law license has been administratively suspended since 2002 for non-payment of his annual Supreme Court license fee and since March 27, 2003, for his non-compliance with the Arkansas CLE Rule requirement.

#### **REINSTATEMENT:**

**WILLIAM SCOTT DAVIDSON, Bar No. 81044**, of Jonesboro, Arkansas, had his law license reinstated effective December 11, 2007, from a one-month suspension ordered in CPC 2006-155.

#### **REPRIMAND:**

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was reprimanded by Committee Consent Findings & Order filed April 2, 2007, on a Complaint filed by Jennifer Rivas in Case No. 2006-072, for violation of Rules 1.16(d) and 8.4(c). Jennifer Rivas of Little Rock hired Mr. Angeleri on December 3, 2005, to file for a divorce for her in Saline County. He quoted her a fee of \$350 plus the filing fee. By January 25, 2006, she had paid him a total of \$520, as shown by her checks and receipt. On January 5, 2006, he filed her Complaint as Saline Circuit No. DR-2006-15-1, and paid a \$140 filing fee. After her last payment to Mr. Angeleri on January 25, 2006, she was unable to make contact with him to learn anything about her case. She retained the services of attorney William Cavanaugh in mid-April 2006, who filed an Amended Complaint for Divorce May 11, 2006, and thereafter represented her. She had to pay Mr. Cavanaugh an additional \$240 to complete the legal work she paid Mr. Angeleri in full to do. Mr. Angeleri abandoned Ms. Rivas and failed to complete the legal services for which she paid him in full.

**NORMAN DAVID ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was reprimanded by Committee Consent Findings & Order filed April 2, 2007, on a Judicial Complaint by United States Bankruptcy Judge James Mixon in Case No. 2006-164, for violation of Rules 1.2(a), 1.3, 1.16(d), 3.3(a), and 8.4(c). Angela Segan employed Mr. Angeleri on September 3, 2005, to file for her both a divorce in Pope County and a Chapter 7 bankruptcy petition. She paid Mr. Angeleri \$700.00 on that date, \$175 on September 15, and \$175 on October 6, for total payments of legal fees and costs of \$1,050. The total for the divorce was a legal fee of \$350 and estimated costs of about \$140. The total for the bankruptcy was a legal fee of \$350 and a filing fee of \$209.

Mr. Angeleri never filed a divorce action for Ms. Segan. Her estranged husband finally got tired of waiting, and he engaged an attorney and filed the divorce on March 28, 2006, as Pope Circuit No. DR-2006-225. Her husband paid all costs and fees associated with the uncontested divorce, and a decree was filed April 27, 2006.

Mr. Angeleri filed the Chapter 7 petition for Ms. Segan on October 16, 2005, as No. 05-bk-28543. Even though by that date she had paid Mr. Angeleri his full legal fee and the full filing fee, he filed an application to pay her filing fee in installments, in violation of Bankruptcy General Rule 1006(b). The Statement Pursuant to Rule 2016(b) Mr. Angeleri filed for her on October 16, 2005, falsely stated to the Court that "\$0.00 of the filing fee in this case has been paid." Mr. Angeleri paid the filing fee on November 20, 2005. Ms. Segan received a discharge on May 2, 2006.

This matter was brought to the attention of the Office of Professional Conduct (OPC) when United States Bankruptcy Judge James Mixon sent OPC the transcript of certain proceedings on April 14, 2006, in the Segan case. The Office of Professional Conduct sent Mr. Angeleri a letter on August 26, 2006, with an October 1, 2006, response due date, asking him about Ms. Segan's matters. On October 5, 2006, Mr. Angeleri sent Ms. Segan a \$490 refund by money order for the fee and costs of her divorce he did not file. Mr. Angeleri contends that their initial agreement was that he would not file for her divorce until after her bankruptcy was completed.

**J.F. ATKINSON, JR., Bar No. 76003**, of Fort Smith, Arkansas, was reprimanded and fined \$750.00 by Committee Consent Findings & Order filed July 20, 2007, on a Complaint filed James Kelly Haynes in Case No. 2007-030, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), and 3.4(c). During June 2005, Mr. Atkinson was appointed by the Circuit Court to represent Mr. Haynes in his Rule 37 Petition proceedings. The Rule 37 Petition was denied by the Circuit Judge. Following the hearing on August 11, 2005, Mr. Haynes asked Mr. Atkinson if he was going to appeal for him. Mr. Atkinson advised that he would not do so. However, on August 25, 2005, the Circuit Judge appointed Mr. Atkinson to pursue the appeal to the Arkansas Supreme Court. Mr. Haynes heard nothing about the appeal for several weeks after that appointment. On October 18, 2005, Mr. Atkinson wrote Mr. Haynes and provided him the office address. That was the last communication Mr. Haynes had with Mr. Atkinson. The Court Reporter requested an Extension of Time to prepare the transcript in December 2005. The Court

granted the request. A Second Order was entered on December 20, 2005.

On January 11, 2006, Mr. Haynes wrote a letter to Sue Newbery, Criminal Justice Coordinator, concerning Mr. Atkinson and his failure to respond to the letters Mr. Haynes had sent. The following day, Mr. Haynes wrote a letter to the Circuit Judge in Fort Smith and requested new counsel. Judge Marschewski denied the request.

Mr. Haynes sent Mr. Atkinson an Inmate Phone Call system sheet for Mr. Atkinson to complete, but he never sent it back. On February 7, 2006, Mr. Haynes wrote Mr. Atkinson again but he did not respond to the letter. Ms. Newbery wrote Mr. Haynes on May 5, 2006, and advised that no transcript had been lodged pertaining to the denial of the Rule 37 Petition. Mr. Haynes wrote Mr. Atkinson again on September 8, 2006, but he did not respond to that letter either. Ms. Newbery sent other letters to Mr. Haynes on October 26, 2006, and on November 17, 2006, confirming that there was no appeal pending on the denial of the Rule 37 Petition.

On February 2, 2007, the Sebastian County Circuit Clerk sent a letter to Mr. Haynes advising that a transcript had been filed and that the matter was now before the Arkansas Supreme Court. After receipt of the letter Mr. Haynes again wrote Ms. Newbery. In her letter of response, she advised that there was no record of the trial court record being tendered to the Clerk of the Arkansas Supreme Court. After the Court Reporter filed the transcript with the Circuit Clerk's office, Mr. Atkinson took no action to perfect the appeal even though he had been appointed to do so, until he filed a motion for belated appeal on April 20, 2007.

Mr. Atkinson admitted the conduct as set forth in the formal disciplinary complaint. He also admitted that he had experienced previous problems in handling post-conviction proceedings such as this one involving Mr. Haynes. There was also an admission by Mr. Atkinson that he did not keep Mr. Haynes informed of the status of the matter nor did he inform him that no appeal had been pursued. Following the filing of the formal disciplinary complaint, Mr. Atkinson's Motion for Belated Appeal in the Haynes' matter was granted by the Arkansas Supreme Court. As a result, Mr. Haynes is allowed the appellate review he requested.

**BRUCE J. BENNETT, Bar No. 92140**, of Bentonville, Arkansas, was reprimanded by Committee Findings & Order filed January 17, 2007, on a complaint filed by Ms. Rosa Elena Cortez of Rogers, Arkansas, in Case No. CPC 2006-091, for violation of Model Rules 1.2(a), 1.3, and 8.4(d). Ms. Cortez, who speaks very little English, hired Bennett in November of 2004 to appeal an adverse decision of the Arkansas Workers' Compensation Commission. Her daughter, Nathaly, occasionally accompanied her to visits with Bennett and served as a translator. Ms. Cortez obtained the file from her previous attorney for Bennett's review. When he received the file, Bennett realized that there was limited time in which to file the notice of appeal. Although he drafted the notice of appeal, Bennett placed it into his Cortez office file, but he did not file it. Mistakenly believing that he had filed the notice of appeal, Bennett informed Nathaly that he had filed the appeal. It was later determined that Bennett had not filed the appeal.

**CALON E. BLACKBURN, JR., Bar No. 74101**, of Drasco, Arkansas, was reprimanded by Committee Consent Findings & Order filed November 27, 2007, in Case No. 2007-093, on a complaint filed by the United States Army for violation of Rule 8.4(c). On May 10, 2007, the Office of Professional Conduct was notified by the Department of the Army that Mr. Blackburn, working as a civilian attorney for the military in the theater, had been reprimanded for making false statements to U.S. and Qatari authorities in connection with an incident on January 18, 2007, in which he was stabbed by a female friend while in his government housing quarters in Qatar. The findings of two Army investigations indicate that Blackburn made multiple false and/or misleading statements to U.S. and Qatari authorities surrounding the circumstances of his injuries to avoid disclosing that his female friend had stabbed him. Instead, Blackburn initially led authorities to believe that he had been the victim of a burglary, which caused great concern because of the possibility that security at the housing compound in Qatar might have been compromised.

**WILLIAM SCOTT DAVIDSON, Bar No. 81044**, of Jonesboro, Arkansas, was reprimanded and fined \$500.00 by Committee Findings & Order filed August 17, 2007, in Case No. 2006-157, on a complaint filed by United States Chief Bankruptcy Judge Audrey Evans, for violation of Rule 8.4(d). Mr. Davidson represented Larry Gene Hawkins in a Chapter 7 bankruptcy case filed October 16, 2005, as No. 05-28385. One of Hawkins creditors, Daedong-USA, Inc., represented by attorney John Peel, filed an adversary proceeding (the "AP") on January 11, 2006, as No. 06-ap-01025. The cases were assigned to Judge Evans. On February 22, 2006, the AP case was set for trial before Judge Evans on May 31, 2006. On May 12, 2006, Judge Evans entered her Order continuing the trial of the AP case to November 8, 2006. On October 31, 2006, Mr. Davidson filed a motion for continuance, stating as the reason that his Arkansas law license was to be suspended for a month beginning the next day, November 1, 2006, as a result of a sanction against him in Committee Case No. CPC 2005-085. Mr. Peel filed a response. The Court granted the motion by Order entered November 9, 2006, and referred the matter to the Committee.

CPC 2005-085 was a complaint by Glenda Tippitt against Mr. Davidson. At a public hearing conducted on August 18, 2006, the Panel announced that it would impose a one month suspension of license on Mr. Davidson, to only become effective almost two and one half months later, on November 1, 2006, as a courtesy to him and his clients, to give him time to get his practice affairs in order and to protect the interests of his clients who had matters that might have hearings or trials in the few months after August 18, 2006. Mr. Davidson apparently failed to notify either Mr. Peel or the Court prior to October 31, 2006, that his law license was to go into suspended status the next day.

**ROBERT L. DEPPER, JR., Bar No. 81046**, of El Dorado, Arkansas, was reprimanded by Committee Consent Findings & Order filed March 16, 2007, on a Complainant filed by Ruby Lee in Case No. 2006-110, for violations of Rules 1.1, 1.8(h)(1), 1.8(h)(2) and 8.4(d). Mr. Depper was also fined \$500 and ordered to pay restitution to Ms. Lee in the amount of \$8500 with credit for most of that the amount he had already paid voluntarily to her. Ms. Lee hired Mr. Depper during January 2003 to pursue a civil matter on her behalf in connection with a personal

injury matter. Ms. Lee had been involved in a car accident in January 2003. Mr. Depper acted diligently for the first year he had the matter. However, the complaint in the cause of action was not filed prior to the running of the statute of limitation, which caused Ms. Lee's claim to be barred. Mr. Depper was not thorough enough in his representation of Ms. Lee to either settle the matter or file a lawsuit prior to the expiration of the statute of limitation.

Upon learning of the error, Mr. Depper contacted Ms. Lee and negotiated with Ms. Lee for payment of money which they believed she would have netted from a settlement of her personal injury claims. Ms. Lee accepted the offer and was paid what she would have netted in the settlement proceeds. However, Mr. Depper did not comply with Rule 1.8(h)(1) and Rule 1.8(h)(2) of the Rules of Professional Conduct, which require that before settling a claim for personal liability to a client, a lawyer is to inform the client in writing of the right and advisability of consulting with independent counsel before settling the claim. The Release which Mr. Depper prepared releasing him from any liability with regard to the handling of Ms. Lee's personal injury claim was signed by Ms. Lee when she was not represented by independent counsel.

**ALICE WARD GREENE, Bar No. 95197**, of North Little Rock, Arkansas, was reprimanded and ordered to pay \$600 restitution to her former client by Committee Findings & Order filed October 17, 2007, in Case No. 2007-038, on a complaint filed by Larry Crawford for violation of Rules 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d) and 8.4(d). In addition, as a result of her failure to respond to the disciplinary complaint, Ms. Greene was Reprimanded and ordered to pay a \$500 fine. Mr. Crawford hired Ms. Greene to seek a reduction in child support because two of his three children had graduated from high school. Ms. Greene was paid \$500 in fees and \$100 in costs to file for a support reduction. She did not take any action on behalf of Mr. Crawford. She did not communicate with Mr. Crawford and did not file any proceeding for him to reduce or abate his child support obligation. Ms. Greene did not return any unearned fee or costs to Mr. Crawford after being terminated from representation.

**TIMOTHY MARK HALL, Bar No. 96043**, of Huntsville, Arkansas, was reprimanded and fined \$1,000.00 by Committee Findings & Order filed September 10, 2007, in Case No. 2007-041, on a complaint by Kenneth Braswell, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 1.5(b), 8.4(c), and 8.4(d). Mr. Braswell hired Mr. Hall to help him with a matter involving his former employer, who had not paid Mr. Braswell the funds he believed were due him. Mr. Hall met with Mr. Braswell and discussed the matter and then advised Braswell that he owed no funds for the meeting and that he should try to handle the matter on his own. Mr. Braswell set up a meeting with his former employer. Mr. Hall advised that he would go as a friend. Mr. Braswell's former employer refused to meet with Mr. Hall in the room, so Hall left the meeting. Mr. Braswell then contacted Mr. Hall after the meeting to let him know that he would need representation. Mr. Hall agreed to send a letter to the former employer and to handle all other matters involved up to the point of filing a lawsuit for a fee of \$750. There was no written fee agreement presented to Mr. Braswell, and there was no explanation of the rate or basis of the fee to be charged. Mr. Hall did not send the letter to the former employer as agreed

upon with Mr. Braswell. He did not return telephone calls or messages left for him. After he was terminated, he told Mr. Braswell that he had a lot of time in the matter and that he charged \$125 per hour for his work. He also stated that he had prepared the letter, but he did not give Mr. Braswell a copy of it. Mr. Hall failed to file a response to the Complaint.

**WILLIAM GLEN HOGGARD, Bar No. 2000064**, of North Little Rock, Arkansas, was reprimanded by Committee Findings & Order filed February 16, 2007, on a complaint developed from information in the appeal file in CA05-1056, *Rex Black vs. Arkansas Department of Human Services*, in Case No. CPC 2006-085, for violation of Arkansas Rules 1.2(a), 1.3, 3.4(c) and 8.4(d). Mr. Black wished to pursue an appeal of the lower court's decision in Pope County Circuit Court, and Mr. Hoggard entered his appearance in November 2005 specifically for that purpose. After obtaining multiple extensions of time to file a brief on Mr. Black's behalf, Mr. Hoggard did not tender a brief until after the appeal had been dismissed. Mr. Hoggard failed to respond to the Appellee's Second Motion to Dismiss, which was granted, ending the appeal.

**WILLIAM GLEN HOGGARD, Bar No. 2000064**, of North Little Rock, Arkansas, was reprimanded and fined \$500.00 by Committee Findings & Order filed May 3, 2007, on a Per Curiam Order Complaint in Case No. 2007-008 for violations of Rules 1.3, 3.4(c) and 8.4(d). The Arkansas Supreme Court referred Mr. Hoggard to the Committee in a Per Curiam delivered on January 4, 2007, wherein they granted his Motion to File a Belated Appeal. The referral was in the case of *Virginia Totten Werts v. Arkansas Department of Health and Human Services*. The Arkansas Court of Appeals had dismissed the appeal during October 2006 based on Mr. Hoggard's failure to file a brief after numerous extensions of time to do so. After the appeal was dismissed, Mr. Hoggard filed a Petition to Rehear the Decision to Dismiss the Appeal. The Court of Appeals denied his Petition. The Supreme Court considered the Petition and treated it as a Motion for Belated Appeal. It was granted and Mr. Hoggard was directed to file a brief within ten (10) days of the date of the Per Curiam. Mr. Hoggard did file a brief as directed. Initially Mr. Hoggard failed to file a brief in the Werts appeal by the final extension granted him until April 10, 2006, and he did not file any pleadings on behalf of Ms. Werts from March 10, 2006, when he requested additional time to file a brief, until November 13, 2006, when he sought to have the appeal reinstated from the Court of Appeals' dismissal for his failure to file a brief.

Mr. Hoggard's failure to file a brief for his client by the final extension resulted in the Arkansas Court of Appeals' dismissing the matter and created the need for additional pleadings and actions by the appellate courts in order to reinstate the appeal. Further, his failure to be certain that he filed a brief on behalf of his client by the date given as a final extension or within the following six months before the Court of Appeals dismissed the appeal created unnecessary delay in the appellate proceeding and created the need for the Court to expend additional time and effort which would not have been necessary otherwise.

**WILLIAM M. HOWARD, JR., Bar No. 87087**, of Pine Bluff, Arkansas, was reprimanded and fined \$500.00 by Committee Consent Findings & Order filed June 15, 2007, on a Per Curiam Order Complaint in Case No. 2007-002, for violation of Rules 1.3 and 8.4(d). Mr. Howard

represented Leeotis Sims on an appeal from a conviction in Clark County Circuit Court. Mr. Howard tendered to the Arkansas Supreme Court Clerk a record of the circuit court proceedings on the 98<sup>th</sup> day following the filing of the notice of appeal. Despite being notified in September, 2006, that he must file a motion for rule on the clerk, Mr. Howard did not file the motion until December, 2006. On January 4, 2007, the Arkansas Supreme Court granted the motion and referred the matter to the Office of Professional Conduct.

**RICHARD JARBOE, Bar No. 69038**, of Walnut Ridge, Arkansas, was reprimanded by Committee Consent Findings & Order filed April 23, 2007, on a Per Curiam Order Complaint in Case No. 2007-022, for violation of Rules 1.1 and 8.4(d). Jarboe filed a notice of appeal for his client, John Otto Downing, Jr., in the case of *John Otto Downing, Jr. vs. State of Arkansas*, Case No. CACR06-727. The notice of appeal, however, was from the April 6, 2006, conditional plea of guilty rather than from the April 6, 2006, judgment and commitment order, as required by Ark. R. Crim. P. 24.3(b) (2006). Following the State's Motion to Dismiss, Jarboe filed a Motion for Belated Appeal with the Supreme Court. On March 1, 2007, the Supreme Court granted the Motion.

**JOHN E. JOPLIN, Bar No 86098**, of Fort Smith, Arkansas, was reprimanded by Committee Findings & Order filed March 7, 2007, on a Complaint filed by William M. Blacker of Fort Smith in Case No. CPC 2006-139, for violations of Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 3.3(a)(1), 8.4(c), and 8.4(d). Mr. Blacker was represented by Mr. Joplin, the public defender, in a criminal matter. Mr. Joplin entered into a plea agreement on behalf of Mr. Blacker. Mr. Blacker was not clear on the terms of the plea agreement and was not present when the plea was actually entered on his behalf. Mr. Joplin did not provide Mr. Blacker with a copy of the plea agreement, and Mr. Blacker did not know when to start making restitution payments. Mr. Joplin acknowledged that he did not send the Judgment or Amended Judgment to Mr. Blacker. Mr. Joplin asserted that the plea agreement present in the Judgment and Amended Judgment was not the actual agreement, because Mr. Blacker was not required to make restitution in the amount of \$30,000, but only a much smaller amount. There was no documentation to establish this and therefore Mr. Blacker would be subject to contempt of court if he failed to make restitution in the amount of \$30,000.

Mr. Joplin was not thorough enough in his representation of Mr. Blacker to be aware that a plea of "nolo contendere" which he entered on behalf of Mr. Blacker is "required to be received only from the defendant himself in open court." Mr. Joplin misrepresented the true facts to Judge Wilkinson when he signed off on a Judgment and an Amended Judgment which set out that his client, Mr. Blacker, was required to pay a total of \$30,000 in restitution. The actual agreement, according to Mr. Joplin, was for Mr. Blacker to pay only \$3,600 as restitution. Joplin also misrepresented the true facts to his client, Mr. Blacker, when he allowed Mr. Blacker to believe that he was entering into a Judgment in his criminal matter which would require Blacker to pay \$3,600 in restitution and then be eligible to have his record expunged.

**ROY C. "BILL" LEWELLEN, Bar No. 82093**, of Marianna, Arkansas, was reprimanded and fined \$5,000 by Committee Findings & Order filed September 24, 2007, in Case No. 2007-056, on a complaint filed by Marsha Warren, for violation of Arkansas Model Rules 1.1, 1.3, 1.4(a), 1.5(c), 1.16(d), and 8.4(d). In September 2002, Ms. Warren of North Little Rock employed Mr. Lewellen to represent her in her claim for injuries received when bitten by a dog owned by Matthew Holder on August 1, 2002, in south Texas. She did not recall ever signing a contract or agreement for legal services and has no copy of one, but recalled that Mr. Lewellen told her his fee would be 25% of any recovery. Thereafter she had contacts from time-to-time on her matter with Mr. Lewellen and with Gary Austin, an attorney who worked with him. She had increasing difficulty contacting Mr. Lewellen about her matter and obtaining information about its status. Her available long distance telephone records from November 2002- August 2004 reflect at least 121 calls to Mr. Lewellen's numbers in Marianna. Most of these were very short calls in which she left a call back. In frustration, Ms. Warren sent Mr. Lewellen a letter on May 11, 2004, terminating his services as her attorney and requesting the return of all her documents. The letter was sent certified mail and returned undelivered.

On September 23, 2004, Mr. Lewellen and Mr. Austin filed suit for her in the United States District Court in Helena, as No. 04-CV-173, against Matthew Holder, described as a resident of Texas. Service by mail was obtained on Mr. Holder. On October 29, 2004, Mr. Holder's attorneys filed a Motion to Dismiss and Brief, alleging lack of jurisdiction over him in Arkansas. On November 22, 2004, Ms. Warren's attorneys filed a Response to the Motion to Dismiss. She had always lived in North Little Rock, and did not live in any place that could be considered as in the Helena Division of the Eastern District of Arkansas, which is where Mr. Lewellen filed her lawsuit.

On November 27, 2004, she wrote Mr. Lewellen again, informing him she was terminating his services and to send her the file. The "green card" for certified mail was signed for on November 29, 2004. In spite of being terminated by her earlier, on December 7, 2004, her attorneys filed a Motion to Transfer her case to the United States District Court in the Southern District of Texas, Galveston Division. She was not consulted about this before they filed it. On December 21, 2004, her attorneys filed a Motion to Voluntarily Non-Suit her Arkansas case. She was not consulted about this move before they filed it. That Motion was granted by the Court's Order filed December 29, 2004. Ms. Warren only learned about this Order some time later.

After she learned of the "non-suit," and that it meant she had one year from December 29, 2004, within which to refile her case somewhere, and that it did not appear Mr. Lewellen was going to refile it in Arkansas or Texas, she sought a new attorney. No attorney she consulted would take her case without a letter from Mr. Lewellen that he was no longer involved in it and that he would not claim a fee from her claim if a recovery was obtained. Ms. Warren requested Mr. Lewellen return her file. To date she has not received the file or a copy. She requested that Mr. Lewellen write a letter for her use that he no longer represented her and would claim no fee from her case, so she could try to engage another lawyer to handle this matter. To date she has received no such letter.

In late October 2005, she filed a complaint against Mr. Lewellen with the Committee on Professional Conduct. On November 15, 2005, the Office of Professional Conduct wrote Mr. Lewellen about her complaint and situation. Mr. Lewellen did not respond to the letter. In late 2005, Ms. Warren tried to contact the insurance carrier for the dog owner about settlement of her claim. By then they would not talk with her, probably because they knew her case was “dead,” not having been refiled within one year after the non-suit.

Mr. Lewellen responded that the Warren file was handled by his associate, Gary Austin, who supposedly misled Lewellen into thinking the Warren matter was being properly handled. Lewellen claims he was not aware of the suit filed for Ms. Warren and did not sign same. In rebuttal, Mr. Austin vigorously disagreed with Mr. Lewellen’s version of what happened in the Warren matter.

**PHILLIP A. MOON, Bar No. 84109**, of Harrison, Arkansas, was reprimanded and ordered to pay restitution in the amount of \$60,000.00 by Committee Consent Findings & Order filed May 29, 2007, on a Complaint filed by C. Brian Meadors, Esq. in Case No. 2006-141, for violation of Rules 1.1, 1.15(a), 3.4(c), 4.4, and 8.4(d). Mr. Moon represented Wayne and Beverly Cotner in a legal matter involving Marti and Dale Benedict of Fayetteville, who were small business owners, in a 1990 transaction in which the Cotners were selling real property to the Benedicts, a transaction which required an escrow agent for \$40,000 deposited in escrow by the Benedicts, the buyers. Moon acted as that escrow agent, and thereby assumed fiduciary responsibilities to the Benedicts. Moon breached his duties to the Benedicts in 1991 by negligently releasing their funds to the Cotners when Moon should not have and after the Benedicts instructed him not to, informing Moon the contract at issue was in dispute. This act cost the Benedicts most of the \$40,000, when the Cotners later took bankruptcy after the Benedicts sued them and Moon. The balance of the escrowed funds has not been recovered. The Benedicts sued Moon in Washington Circuit Court No. CIV-94-851. The case was tried in 1999. An Amended Judgment was filed on October 2, 2003, finding that Moon had committed gross negligence in his release of these escrow funds, and that Moon thereby breached his fiduciary duty to the Benedicts. Judgment for \$40,000, plus interest, totaling \$53,283.16 in all, was entered against Moon on October 2, 2003. That judgment was not appealed and became final. The judgment ordered Moon to comply with Arkansas Code Section 16-66-221 and file within forty-five (45) days a verified list of all his real and personal property, including bank accounts, and to specify which properties he claimed as exempt under law. Moon failed to comply with this court order. Thereafter, in 2005 Mr. Meadors garnished all banks in Harrison and only found one account of Moon’s, a personal account, which contained \$227.44, and bore evidence of Moon’s commingling of client and personal funds in that one account. Pursuant to his obligation as an attorney under Rule 8.3(a), Mr. Meadors reported this information to the Committee.

Each year every Arkansas licensed attorney is required to file an IOLTA statement with the Arkansas Supreme Court giving the status of the attorney’s trust account. According to the Affidavit of Ms. Pointer, Director of the Arkansas IOLTA office, Moon has not reported

maintaining an IOLTA account for client funds since July 19, 1999. Since Moon does receive client funds, he is required to maintain a trust account in some form. Ms. Pointers' Affidavit of March 11, 2005, confirms Moon has not reported to that office having an IOLTA trust account since his previous trust account was closed on July 19, 1999.

Mr. Moon responded that he had negligently released the escrowed funds to the Cotners. He admitted to having no trust account from 1999-2006, primarily out of fear that any funds in one would be subject to garnishment by the Benedicts on their judgment against him. He stated the two checks mentioned by Mr. Meador as evidencing client funds that should have been in a trust account were either a refund of fees already earned or a return of fees due to a billing error as between two of his clients with the same last name. He also stated that he had not generated much net income from his law practice in the years after the judgment against him, and that he had no means for attempting to satisfy the Benedict judgment until a family member recently agreed to collateralize a bank loan for him for the \$60,000 he has tendered for restitution before the Committee.

**WILLIAM KURT MORITZ, Bar No. 99021**, of Hot Springs, Arkansas, was reprimanded, fined \$500.00, and assessed costs in the amount of \$50.00 by Committee Findings & Order filed October 29, 2007, in Case No. 2007-075, on a complaint filed by District Judge Lynn T. Williams for violation of Rules 3.4(c), 5.5(a), and 8.4(d). Mr. Moritz had a court setting in Hot Springs District Court for May 10, 2007. Mr. Moritz had a previously scheduled hearing in Sevier County Circuit Court and appeared in court there. The hearing in Sevier County Circuit Court lasted longer than he anticipated and he did not appear in Hot Springs District Court. Mr. Moritz was also scheduled to appear in a separate matter in a separate division of Hot Springs District Court on May 10, 2007, but failed to appear there as well. Mr. Moritz failed to pay his bar license fee by March 1, 2007, and was administratively suspended from the practice of law from March 2, 2007, until his license fee was on May 24, 2007. Despite the administrative suspension, Mr. Moritz continued to appear in court.

**JAMES KIRBY RIFFEL, Bar No. 71065**, of Pocahontas, Arkansas, was reprimanded by Committee Findings & Order filed June 20, 2007, on a Complaint by Lawrence County District Judge Larry Hayes in Case No. 2007-013, for violation of Rules 3.3(a)(1), 8.4(b), 8.4(c), and 8.4(d). On August 30, 2006, Mr. Riffel was convicted of speeding in the Newport District Court in Jackson County, Arkansas, in Case No. TR-06-1376, for an offense of going 78 mph in a 55 mph zone that occurred on June 21, 2006, on US Highway 67. He forfeited a bond of \$165.00 and was placed on probation.

On October 24, 2006, Mr. Riffel was cited for speeding (68 mph in a 55 mph zone) in Lawrence County, with the charge becoming Case No. 06-3616 in Lawrence County District Court. At his court date on December 14, 2006, he submitted to the court, through the prosecutor, his Affidavit notarized December 11, 2006, falsely stating that he had received no other traffic citations in the twelve months preceding this citation (issued October 24, 2006), as a means of taking advantage of the court's policy of being placed on probation if he had no other speeding

conviction in the previous twelve months. Based on Mr. Riffel's false Affidavit, the court approved a Judgment order on December 14, 2006, placed him on probation and ordered him to pay a fine and costs of \$110.00.

The court also directed that an officer run an ACIC driver's license check to verify that his record did not show previous speeding violations. That record check revealed his case in Newport that was concluded on August 30, 2006, about three and one-half months before he executed his Affidavit in the Lawrence County case. Upon being provided this information, Judge Hayes scratched his approving signature off the December 14, 2006, probation Judgment, ordered Mr. Riffel's bond forfeited, and brought the matter to the attention of the deputy prosecutor, Joe Grider. Judge Hayes reports that Mr. Grider declined to take action. On December 20, 2006, Mr. Riffel executed an Amended and Substituted Affidavit, explaining his version of events leading to his original Affidavit to the Lawrence County District Court. His Amended and Substituted Affidavit sets out his explanation for the original Affidavit.

**WILLIAM S. ROBINSON, Bar No. 76108**, of North Little Rock, Arkansas, was reprimanded by Committee Findings & Order filed April 30, 2007, on a Complaint by Leopold Wilburn in Case No. 2006-147, for violation of Rules 1.2(a), 1.3, 1.4(a)(3) and 1.4(a)(4). Leopold Wilburn hired Mr. Robinson during May 2005 for assistance with a guardianship matter and for preparation of a Power of Attorney for two elderly family members. Mr. Robinson requested a fee of \$500 which Mr. Wilburn paid during the initial consultation. No action had been taken on Mr. Wilburn's behalf at the time of the filing of the formal disciplinary complaint. Mr. Robinson had not responded to requests for information nor kept Mr. Wilburn informed of any actions he might have taken on his behalf. Mr. Wilburn specifically hired Mr. Robinson to assist Mr. Wilburn with adding a co-guardian for his aunt Odessa McDuffie during May 2005. Since that time until late 2006, Mr. Robinson failed to take action to accomplish the objective of the representation with regard to the guardianship.

**JIM ROSE, III, Bar No. 79247**, of Fayetteville, Arkansas, was reprimanded by Committee Findings & Order filed August 17, 2007, in Case No. 2007-049, on a complaint filed by Pamela E. Fischer, for violation of Rules 1.1, 1.3, and 8.4(d). On April 3, 2002, Mr. and Mrs. Fischer hired Jim Rose, III, an attorney practicing primarily in Fayetteville, to represent them concerning an investigation being pursued by the Internal Revenue Service and any appeals arising out of any criminal charges which might be filed. Mr. Rose and another attorney, Rick E. Woods of Fayetteville, were paid a total of \$30,000. The check cleared the Fischers's bank the day after it was written. The Fischers were referred to Mr. Rose and Mr. Woods by Harry McDermott, another attorney practicing in Fayetteville.

When Mr. and Mrs. Fischer first met with Mr. Rose and Mr. Wood to discuss their situation, the attorneys contacted the IRS. The Fischers were informed that the \$30,000 covered investigation, trial and appeals. There was one meeting with the IRS and both Mr. Rose and Mr. Woods attended. During December 2003, Mr. Fischer was charged with income tax fraud. Mrs. Fischer was never charged.

In early May 2004, Mrs. Fischer's husband was advised to take a plea deal because the case was so huge and blatant that, if he did not take the deal, the government would file the charge of obstruction of justice against Mrs. Fischer. Charges were not filed against Mrs. Fischer. The sentence imposed after entry of the plea was harsher and not what had been explained to Mr. and Mrs. Fischer, and they were extremely upset. As such, Mr. Fischer wanted an appeal of the sentence to be pursued by Mr. Rose.

Mr. Fischer filed a post-conviction proceeding after being sentenced to a much greater amount of time than he was informed by his attorneys, Mr. Rose and Mr. Woods. The hearing on the post-conviction pleading was held on November 15, 2005. Following the filing of the post-hearing briefs by both sides, Magistrate Judge Beverly Stites Jones sent a request that both sides submit briefs on the issue of a requested appeal. Magistrate Judge Stites denied the Section 2255 motion filed by Mr. Fischer. Judge Jimm Larry Hendren filed his Order in the matter on October 11, 2006. Judge Hendren specifically found that Mr. Fischer clearly conveyed his desire to appeal and that his attorneys (Rose and Woods) did not file a timely Notice of Appeal. Based upon this, the Court found that Mr. Fischer received ineffective assistance of counsel. Based upon his findings, Judge Hendren set a re-sentencing. Following the re-sentencing, Mr. Fischer's time of incarceration was reduced from 46 months to 35 months. The fine and the restitution remained the same.

In responding to the formal disciplinary complaint, Mr. Rose denied that he failed to file a timely Notice of Appeal and explained that his client, Mr. Fischer, never clearly conveyed his desire to appeal. According to Mr. Rose, the only time the word "appeal" was used was when his client asked immediately following sentencing "can we appeal this". Mr. Rose replied that "yes," Mr. Fischer could, but that then was not the time to discuss it. Mr. Rose offered that he explained the futility of an appeal to Mr. Fischer and then suggested that he come to his office to discuss it further. Mr. Rose advised the Committee that Mr. Fischer never came to his office or called him to discuss an appeal after they left the sentencing. Mr. Rose averred that he would have filed a Notice of Appeal if Mr. Fischer had ever requested him to do so.

Mr. Rose disputed the information provided that Mr. Fischer contacted his office three times following the sentencing. Mr. Rose said that, if that had occurred, he would have returned the telephone call. Mr. Rose also explained that he did not remember making the statement that Mr. Fischer "no doubt wanted to appeal" during an interview with the Federal Public Defender and their investigator, as testified to by Mr. Woods and the investigator during the evidentiary hearing in November 2006. Mr. Rose stated that if he did make the statement, he was only to say it was evident two (2) years after that sentencing hearing that Mr. Fischer had wanted to appeal.

In concluding his response, Mr. Rose offered that Mr. Fischer is actually better off that he would have been if an appeal had been filed. There is no doubt in Mr. Rose's mind that had Judge Hendren's decision not to accept the plea bargain and to go with the new higher loss been appealed, it would have been affirmed because there was nothing faulty in the reasoning or decision. However, because Mr. Fischer filed the pleading he filed and was able to get back

before Judge Hendren, he was granted a new sentencing hearing and Judge Hendren reduced Mr. Fischer's time of incarceration. While remaining respectful of Judge Hendren's decision, Mr. Rose did not agree with it, and continued to maintain that Mr. Fischer did not convey his desire to appeal.

**TERRY R. SMITH, Bar No. 2005105**, of Little Rock, Arkansas, was reprimanded by Committee Consent Findings & Order filed June 15, 2007, on a Complaint before the Committee in Case No. 2007-042, for violation of Rule 8.4(c). Smith was required to take the Professional Practicum within two years of admission to the Bar of Arkansas. Smith registered and paid for the November 2, 2006, Practicum, and he wrote to the Office of Professional Programs a few days after that Practicum that he had attended. It was not until his response to a request for proof of attendance that Smith clarified that he had attended only half of the conference due to illness.

**ROY EDWARD THOMAS, Bar No. 73122**, of Batesville, Arkansas, was reprimanded and ordered to pay \$1,200.00 in restitution by Committee Findings & Order filed August 24, 2007, in Case No. 2007-025, on a complaint filed by Fred Jones, for violation of Rules 1.2(a), 1.3, 1.4(a), 1.16(d), 3.4(c), and 5.5(a). Mr. Jones of Batesville, who was the President of The Electric Company, Incorporated, consulted with Mr. Thomas in March 2004 about filing a business bankruptcy. Mr. Jones paid Mr. Thomas his requested fee of \$1,200.00 for the bankruptcy service on May 13, 2004. Thereafter, Mr. Jones did not hear from Mr. Thomas directly about the status of this matter, although he did attempt to obtain information from Mr. Thomas and his office. A search of bankruptcy records for the Eastern District of Arkansas via PACER reveals no bankruptcy case filed for either Fred D. Jones or The Electric Company, Incorporated by Mr. Thomas or anyone else. Mr. Thomas did not communicate with Mr. Jones after May 2004 that Thomas would not represent Jones in this matter, nor has Thomas refunded to Jones the unearned fee. In mid-2004, Sanders Plumbing Supply, Inc. a major creditor of the company, filed suit against Mr. Jones and The Electric Company, Inc., on a business debt that Mr. Jones intended to have discharged in the bankruptcy that Mr. Thomas was employed to file. On August 13, 2004, the creditor obtained a default judgment against Mr. Jones and the corporation for over \$65,000, which Mr. Jones was unable to satisfy.

**MORRIS W. THOMPSON, Bar No. 80145**, of Little Rock, Arkansas, was reprimanded by the Opinion of the Arkansas Supreme Court in No. 06-1069, *Morris W. Thompson vs. Supreme Court Committee on Professional Conduct*, delivered March 8, 2007, affirming the Committee Findings & Order filed March 7, 2007, on a complaint filed by Leon Gooden of Jonesboro in Case No. CPC 2005-067, which assessed a reprimand, a \$4,000 fine, and \$378 costs against Mr. Thompson for violation of Model Rules 3.1 and 4.4. The facts of the case were reported in The Arkansas Lawyer in Vol. 41, No. 3 (at page 38), Summer 2006.

On March 7, 2003, Thompson filed a breach-of-contract lawsuit on behalf of a contractor against Mr. Gooden, seeking a money judgment for work performed on Gooden's property located at 213 N. Allis in Jonesboro. On May 30, 2003, Thompson filed a lis pendens notice on eleven of Gooden's separate properties. Gooden wanted to sell a property he owned at 216 N.

Fisher but was unable to do so because of the lis pendens notice. Gooden contacted two local attorneys about the situation. The first attorney spoke to Thompson in December 2003. The second attorney wrote Thompson in January 2004. Both requested that Thompson promptly remove the lis pendens as to any properties except the one on which the work was actually performed. On February 11, 2004, Thompson filed a release on nine of the eleven properties listed in the lis pendens notice. Arkansas law is well settled that a lis pendens notice cannot be filed in a civil action seeking a money judgment. After being notified, Thompson took two months before making any attempt to correct his error.

**JAMES F. VALLEY, Bar No. 96052**, of Helena, Arkansas, was reprimanded and ordered to pay \$60.00 restitution by Committee Consent Findings & Order filed April 23, 2007, on a Complaint filed by Sam & Shirley Gilmore in Case No. 2006-086, for violation of Rules 1.3, 1.15(a), and 5.5(a). Sam Gilmore of Elaine, Arkansas, is the father of a daughter, LaSandra Gilmore Cockerham, born in July 1989 in Clarksdale, Mississippi. Her Mississippi birth certificate lists her name as LaSandra Gilmore Cockerham. Mr. Gilmore is now married to her mother, Annie Cockerham. He desired to have LaSandra's last name changed to Gilmore on her birth certificate. On June 14, 2002, he hired Mr. Valley, to perform this legal work, and paid him by check the \$455.00 Valley quoted him as his legal fee and the advance payment of any court costs or filing fees that might be needed for the work. There is no indicia on Gilmore's check to show Valley deposited it into a trust account, as required by Rule since it contained payment in advance of court costs to be expended by Valley in the future. Mr. Valley prepared a Complaint to Correct Birth Certificate, which Mr. and Mrs. Gilmore signed, and Valley, who is also licensed in Mississippi, then filed it in the Chancery Court in Clarksdale, Coahoma County, Mississippi on August 22, 2002. No further action was taken by Mr. Valley in the case. Over the intervening years Mr. Gilmore attempted to obtain from Valley or his office information about the status of this matter, without success.

The action Mr. Valley filed in August 2002 in Mississippi for Mr. Gilmore was dismissed "for want of prosecution" on December 15, 2003, after notice to Valley on September 10, 2003, of this impending action, as shown by the court papers attached to Mr. Pederson's Affidavit, Exhibit D. Mr. Valley failed to inform his client of this adverse action, caused by Valley's failure to take care of the legal business Mr. Gilmore had entrusted to him.

Mr. Gilmore filed his disciplinary complaint April 22, 2005. The Office of Professional Conduct wrote Mr. Valley on January 25, 2006, about this matter. He responded on May 1, 2006, by letter, stating he had mailed Mr. Gilmore a \$300 refund check, and that he had paid the Mississippi case filing fees from the \$455.00. In his letter he failed to mention that the Mississippi action had been dismissed for his "want of prosecution" over two years previously.

Further investigation revealed that Mr. Valley's annual law license fee to the Arkansas Supreme Court, due by March 1 each year, was not paid for 2005 until June 10, 2005, and his 2006 fee was not paid until June 15, 2006. Mr. Valley practiced law in Arkansas during these two time periods when his Arkansas law license was administratively suspended for failure to

timely pay his license fee as required by Court rule and order. Specific evidence of his litigation practice during these time periods is contained in the Affidavits of Denise Parks and Jim Mencer. Mr. Valley was counsel of record who filed the appeal docketed as No. 05-268 on March 11, 2005, in *Katrina Valley et al. v. National Zinc Processors et al.* According to Mr. Mencer's Affidavit, Mr. Valley filed at least nine (9) cases in Phillips County Circuit Court alone during the two time periods here when his Arkansas law license was in suspended status.

**JIMMIE L. WILSON, Bar No. 73128**, of West Helena, Arkansas, was reprimanded by Committee Findings & Order filed April 23, 2007, after a hearing, on a referral from the Arkansas Supreme Court in Case No. 2006-042, for violation of Rules 3.3(a)(1), 3.4(c), 8.4(c), and 8.4(d). This matter arose from the "Lakeview School Funding Case," *Lakeview, et al. v. Huckabee et al.*, 351 Ark. 31, 91 S.W.3d 472 (2002), (hereafter "*Lakeview*"), in which Mr. Wilson participated as an attorney for many years, along with other attorneys, representing the Lakeview School District. In the 2002 *Lakeview* opinion, the Arkansas Supreme Court awarded attorneys fees of \$3,397,050.00, collectively, to the attorneys for Lakeview. There were expert witness payment issues that were unresolved from the *Lakeview* case for plaintiff Lakeview's attorneys.

Problems arose with the distribution of the *Lakeview* attorneys fees, leading to the filing of *Jimmie L. Wilson v. Eugene G. Sayre et al.* in Pulaski Circuit Court in 2003 as No. CV03-6818. The decision in that case was appealed by Mr. Wilson and the record was lodged in the Arkansas Supreme Court on October 6, 2004, as No. 04-1053. In his points on appeal and in his brief he indicated, or allowed the impression to be taken from his materials, that he was appealing the trial court's division of legal fees in the *Lakeview* case, by which Wilson was individually awarded \$636,518.87. On or about August 30, 2005, Wilson obtained the check payable to himself for that amount in the hands of the Pulaski County Circuit Clerk and negotiated same, without informing opposing appellate counsel or the Supreme Court of his action. Upon learning of Wilson's action, certain appellees filed a Motion to Dismiss Appellant's Appeal As Moot on November 9, 2005, alleging Wilson's "election of remedies" in cashing the check. The Court agreed, granted the Motion, and dismissed the appeal. Wilson did not correct with the Court the false impression of material fact he advanced in his appeal, and left it uncorrected, that he had not accepted or received the benefit of the trial court's award of attorney's fees to him.

In his "Suggestions for Disqualification: Request for Recusal of the Court *En Banc*" filed April 3, 2006, Mr. Wilson addressed to the Arkansas Supreme Court as a body, and to its members, the following language which the Committee found to be disrespectful, intemperate, strident, and contemptuous of the Court: (1) that the Court had engaged in "purposeful discrimination against appellant (you) on the basis of his race first and foremost..."; (2) that the Court had a "history of unfairness to African-American lawyers involved in disciplinary proceedings..."; (4) that the Court, "[A]cted with such hostility and prejudice toward the appellant, it is rational to believe based upon this court's history in the arena of the race question."; (5) "That in every instance in which appellant has been before the court and there has

been an opportunity for **Justice Glaze, particularly**, to render an opinion regarding the rights of the appellant and other African-American lawyers, judges and African-American litigants on constitutional and civil rights issues have been in the extremely negative response coupled with antagonism and a prejudice that is not only the belief of the appellant, **but is accepted as a fact in discourse of conversational exchange between African-American Lawyers as whole within this state.**"; (6) **"That the combinations of the demonstrative prejudices of this court and the fact that one of this court members is up for re-election and appellee to the instant lawsuit is a campaign officer in his re-election creates a TAINT that envelopes the whole institution as it relates to its ability to give due process to the appellant; Judge Brown is running for re-election and one of his campaign officers indeed a person who is soliciting funds for the benefit of Justice Brown election is Richard Hatfield an appellee in this case and it is believed that the court curtailed the full appellate review in this matter in order to protect one of its members re-election official from facing a review before this court for participation in the conduct alleged in the instant cause, thus causing embarrassment to one of it's members - even though that member had disqualified from this case he was still a member of this Arkansas Supreme Court as an institution. See attached Joint Exhibit 1."**; (8) "That these African-American lawyers noted in paragraph 32 are the latest in a series of African-American lawyers who have been held-up to public ridicule by this court or its alter-ego the Arkansas Supreme Court Committee on Professional Conduct as an example by this court determined effort to "clean-up" the bar, are treated in a 380° difference from Caucasian lawyers and the Caucasian judge involved in the instant case."; (10) ***"That the disposition of the appellant's causes that have appeared before the court are based upon out-of-court; extra-judicial; political and racial consideration having nothing to do with the cases aforementioned that appeared before the court and have nothing to do with the merit of the instant case."***; (11) "This court **honors** through its replications and immortalizations of the confederate supreme court of arkansas 1861-1865, that which cost African-Americans two-hundred plus years of slavery prior to the Emancipation Proclamation and the 13<sup>th</sup> Amendment to the Unites State Constitution. **Racially motivated horrors, miseries, rapes, molestations and deprivations** are the legacy which this court embraces through the ceremonial exaltation of this group of **traitors**.... This present Arkansas Supreme Court through the portrayal of pictures, plaques and symbols of pride and recognition of the confederate supreme court of arkansas found in the halls of the present Arkansas Supreme Court Building says a loud "Amen" to the racism embraced by this period of jurisprudence in this state."; (12) "This court like every other court in the United States of America has never been a friend to African-American citizens concepts of constitutional rights, far the less, an enforcer of those concepts."; (13) "So a dual standard of ethics is approved by the court one relating to African-American lawyers who are accused of taking their clients monies and one entirely the opposite applies to "white" lawyers who have been accused of taking or stealing their clients monies."; (15) **"This court has not experienced one moment of what it means to be African-Americans in this country and having not spent one moment walking in the shoes of African-American citizens - having excluded itself from even minimum experiences with African-Americans while on the bench - there is absolutely no means by which this court can have any sensitivity of "justice" for the descendants of Slaves. This court while still sitting on the "porch" of the master-a "porch"**

**called the Arkansas Supreme Court still maintains these historic distinctions between itself and persons like the appellant. This court still approves and fosters a system of exclusivity in the membership of the court i.e. while there is no sign “white only” visible it is there nevertheless. This court’s approval of the systematic exclusions of African-Americans from participating in the product that it characterizes as “justice” is surreal.”** (Bolded emphasis in all places indicated by Mr. Wilson to the Court.)

**CAUTION:**

**JOHN C. BARTTELT, Bar No. 87011**, of Jonesboro, Arkansas, was cautioned by Committee Consent Findings & Order filed April 23, 2007, on a Complaint Before the Committee in Case No. 2006-148, for violation of Rules 1.1, 1.3, and 8.4(d). Mr. Barttelt represented Lydia Palasota through the claim process at the Commission. The Administrative Law Judge ruled in favor of Ms. Palasota’s claim and awarded her a total 13% permanent impairment rating, based on the testimony of her treating MD, Dr. Rosenzweig. On appeal, the Full Commission, in a 2-1 vote, modified her rating to the 4% for the cervical spine only that was offered by Dr. Schlesinger, based on his IME neurological exam. The docket sheet in her case, No. CA-2006-474, reveals the appellate record was lodged by Mr. Barttelt on May 1, 2006. Thereafter he sought and obtained three (3) extensions of time to file her brief, the last due date being September 1, 2006. He failed to file a brief. On September 28, 2006, appellee’s counsel filed a Motion to Dismiss. Mr. Barttelt filed no response. By Mandate issued October 11, 2006, the Court of Appeals granted the Motion and dismissed his client’s appeal.

Mr. Barttelt responded that he had advised his client that the Commission decision against her was supported by substantial evidence and further appeal to the Arkansas Court of Appeals was without substantial merit, based on his almost twenty years practice in the field. Mr. Barttelt claimed Ms. Palasota requested that he file a Notice of Appeal so she might consider this further, including the possibility of retaining new counsel. He did file her Notice of Appeal.

**JIMMY RAY BAXTER, Bar No. 78012**, of Benton, Arkansas, was cautioned and ordered to pay \$5,000.00 restitution by Committee Consent Findings & Order filed June 15, 2007, on a Complaint filed by Larry & Mary Ballard in Case No. 2007-034 for violation of Rules 1.4(a)(4) and 1.16(d). On March 8, 2006, Mary and Larry Ballard met with Baxter in his Benton office to discuss a lawsuit against the Gulfstream RV manufacturer for its failure to repair problems with their coach. The Ballards informed Baxter that time was of the essence, as their warranty was due to expire in May 2006. After they paid Baxter \$5,000 for his services, the Ballards began calling to check on the status of their case, and they left several messages for him; however, their calls were not returned. On July 31, the Ballards met with Baxter again regarding their case. Uneasy about how this meeting went, the Ballards decided to terminate Baxter’s services. They called Baxter’s office on August 3 and informed the staff of their decision. They also sent a letter informing Baxter that his services were no longer needed and requesting a refund of the balance remaining on their \$5,000 retainer.

**DON CLAYTON COOKSEY, Bar No. 74199**, of Texarkana, Arkansas, was cautioned and fined \$500 by Committee Findings & Order filed December 4, 2007, in Case No. 2007-072, on a judicial referral for violation of Rules 1.1, 1.3, and 8.4(d). Cooksey was also fined \$250 and cautioned for his failure to respond to the Committee's complaint. On December 12, 2006, the Little River County Circuit Court filed an order in Case No. CR2005-47-1, sentencing Cooksey's client, Susan Whitman, to a \$4,000 fine and one year probation for four counts of cruelty to animals. Cooksey timely filed the notice of appeal; however, he untimely tendered the record on appeal. The Arkansas Supreme Court granted Cooksey's Motion for Rule on the Clerk after he admitted his error in the failure to perfect the appeal.

**TREECA DYER, Bar No. 81052**, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed May 21, 2007, on a Complaint Before the Committee in Case No. 2007-017, for violation of Rules 5.3(b) and 7.4(d). On January 22, 2007, Dyer self-reported that her business manager, on behalf of Law Offices of Treeca J. Dyer, P.A., placed an advertisement in the 2007 Yellow Pages which stated that Dyer specialized in family law. Dyer was not aware of this advertisement's contents until after it was placed in the Yellow Pages.

**JANIE M. EVINS, Bar No. 92068**, of Hot Springs, Arkansas, was cautioned and fined \$500 by Committee Findings & Order filed , October 24, 2007, in Case No. 2007-079, on a complaint filed by Crystal McKinney for violation of Rules 3.3(a)(2), 3.3(a)(4), 3.4(c), 3.4(d), 4.4, and 8.4(d). During calendar year 2004, Ms. Evins represented Clint Asher in a custody proceeding involving Crystal McKinney, the mother of his minor child. In the course of that representation, there was a hearing where Ms. Evins' client, Mr. Asher, provided false testimony concerning his ability to obtain medical records concerning Mr. Asher's minor son. As Ms. Evins had been provided with at least one medical record the day before the hearing, she was aware of the false statement but took no action to correct the statement. She allowed the Court to rely on Mr. Asher's testimony and enter an Order in reliance thereon. Ms. Evins offered the evidence through her client, Mr. Asher, that he had not been able to obtain any medical records with regard to his minor child, which evidence was not factually accurate. Ms. Evins took no remedial measures to make certain that the true facts were given the Court in testimony on May 12, 2004. When the true facts were discovered, the Court was required to conduct other hearings. The initial decision was set aside. As the matter progressed, Ms. Evins engaged in delay and other tactics which had no substantial purpose than to harass, burden, embarrass or delay Mrs. McKinney. Ms. Evins failed to comply with the Arkansas Rules of Civil Procedure, in that she failed to file timely responses to discovery on behalf of her client in the custody proceeding. Ms. Evins' failure in doing so required a Motion to Compel to be necessary in the matter.

**STEPHEN FISHER, Bar No. 91073**, of Little Rock, Arkansas, was cautioned by Committee Findings and Order filed March 9, 2007, on a complaint by Chris and Janetta Porter of Little Rock, Arkansas, in Case No. CPC 2006-143, for violation of Arkansas Rules 1.1, 1.3, 3.2, 3.4(c), and 5.5(a). Mr. Fisher agreed to represent Chris and Janetta Porter in a federal lawsuit, where

they alleged discrimination by their former employer. Mr. Fisher met with the Porters and accepted money for fees from them during a time when his license to practice law was suspended for failure to pay his annual license fee. Mr. Fisher failed to act diligently and promptly in his representation of the Porters. He did not serve the defendant in a prompt manner and sought two extensions of time in which to do so. During the course of his representation of the Porters, Mr. Fisher did not timely respond to the discovery served on him. He did not respond to the Motion for Summary Judgment filed by the opposing counsel. He was not thorough enough in his representation of Chris and Janetta Porter to be certain that he sued all appropriate defendants in the matter.

In addition, Mr. Fisher did not send the discovery requests to his clients until two weeks after the discovery requests were served on him by opposing counsel. Instead of expediting the litigation for the Porters, he requested extensions of time to serve the defendant, failed to timely respond to discovery, and requested extensions of time in order to respond to Motion for Summary Judgment filed by the opposing counsel in the matter but then filed no response. Although Mr. Fisher had been a lawyer for fourteen years in 2005, he failed to comply with Rule VII of the Rules Governing Admission to the Bar when he failed to pay his 2005 annual license fee by March 1, 2005 and failed to pay his 2006 annual license fee by March 1, 2006. Pursuant to Section 22 of the Procedures of the Arkansas Supreme Court Regulating the Professional Conduct of Attorneys at Law, he was not to be in an office where the practice of law is conducted during any period of suspension. His law license was suspended from March 2, 2005 through June 10, 2005, and from March 2, 2006 through July 13, 2006. During both periods of license suspension, he was practicing law in his office.

**PAMELA FISK, Bar No. 2001179**, of Texarkana, Arkansas, was cautioned by Committee Findings & Order filed January 12, 2007, on a complaint filed by Sherry A. Wise, in Case No. CPC 2006-138, for violation of Model Rules 1.1, 1.3, 1.4(a), and 8.4(d). In April 2003, Ms. Wise hired Ms. Fisk to represent her in a bankruptcy proceeding. At the time, Ms. Wise was involved in a civil lawsuit concerning her home and damages to it caused by defective roofing materials. She needed to save her home from foreclosure while the lawsuit was pending. Ms. Fisk advised Ms. Wise that she was not eligible for Chapter 13 relief and had to file pursuant to Chapter 7 of the bankruptcy code. Ms. Wise ended up losing her home after Ms. Fisk did not appear at a hearing on the Motion for Relief from Stay by the mortgage company. The Committee found that Ms. Fisk did not notify Ms. Wise of the Order, nor did she send Ms. Wise a copy of the Order granting relief from stay when the same was entered five days after the hearing at which Ms. Fisk failed to appear. Ms. Wise lost her home and also lost a chance at a substantial amount of damages which she could have been seeking in her civil litigation.

Honorable James Mixon, Bankruptcy Judge, in an October 2004 hearing, stated on the record in his Court that Ms. Wise should seek a lawyer to sue Ms. Fisk for malpractice because she “gummed the case up”. He also found that Ms. Wise had a valid defense to the Motion for Relief from Stay, had Ms. Fisk appeared to present it. Judge Mixon said on the record that he was going to pursue an Order to Show Cause on Ms. Fisk, but there is no record that one was

pursued. Ms. Fisk was not thorough enough in her representation of Ms. Wise to determine that she was eligible for bankruptcy relief pursuant to Chapter 13 of the Bankruptcy Code, which would have benefitted her much more than the Chapter 7 filed on her behalf. Ms. Fisk did not advise Ms. Wise of the Order granting the relief from stay related to her home after the same was entered of record in February 2004.

**CHARLES J. GARDNER, Bar No. 76036**, of Blytheville, Arkansas, was cautioned and ordered to pay \$194 in restitution for the benefit of his former client by Committee Consent Findings & Order filed October 19, 2007, in Case No. 2007-074, on a complaint filed by Joyce Harvey for a violation of Rule 1.3. The information before the Panel reflected that on January 11, 2005, Ms. Harvey met with Mr. Gardner to pursue a bankruptcy proceeding on her behalf. Mr. Gardner agreed to represent Ms. Harvey and he was paid \$194. Ms. Harvey explained to Mr. Gardner that time was of the essence in filing the bankruptcy petition because her home was scheduled for foreclosure sale on February 9, 2005. All information Mr. Gardner requested of Ms. Harvey was delivered to his office in a timely manner. Mr. Gardner failed to file the bankruptcy petition until February 21, 2005. The filing was after the date of the foreclosure sale. The mortgage company filed a Motion for Relief from the Stay, which was granted. Ms. Harvey lost possession of her home. After a conference with Mr. Gardner, the bankruptcy proceeding was dismissed. Ms. Harvey met with Mr. Gardner with regard to the damages she suffered with regard to his late filing of the bankruptcy proceeding but they have not yet reached a resolution of the issues.

**RICHARD M. GRASBY, Bar No. 85060**, of Little Rock, Arkansas, was cautioned by Committee Findings and Order filed April 25, 2007, fined the sum of Five Hundred Dollars (\$500.00); directed to pay restitution in the amount of One Thousand Dollars (\$1,000.00) and assessed costs in the amount of Fifty Dollars (\$50.00), all for violation of Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 1.16(d) on a complaint filed by Jana Young in Case No. 2007-005. Ms. Young employed Mr. Grasby in November, 2005, to represent her in Little Rock District Court on charges of Driving While Intoxicated and Refusal to Submit to Testing. Mr. Grasby appeared with Ms. Young at arraignment and entered a plea of not guilty. Ms. Young received a letter from Mr. Grasby stating that trial was set for March 27, 2006. Ms. Young appeared in court on March 27, 2006, but Mr. Grasby failed to appear. The matter was re-set for June 12, 2006. Ms. Young contacted Mr. Grasby to see about having the court date changed. Mr. Grasby stated that he would have the court date moved. Ms. Young scheduled an appointment for April 15, 2006, to go over discovery information from the prosecutor but Mr. Grasby failed to attend the meeting. Ms. Young demanded return of the fees paid but Mr. Grasby failed to return the fees following the demand.

**MICHAEL JOE HAMBY, Bar No. 89067**, of Greenwood, Arkansas, was cautioned by Committee Consent Findings & Order filed May 21, 2007, on a Per Curiam Order Complaint in Case No. 2006-109, for violation of Rules 1.1, 1.3, and 8.4(d). Mr. Hamby filed an appeal from an adverse Workers Compensation Commission decision for his client Debra Hill, as No. CA06-758, on July 10, 2006. His brief was due on August 21, 2006. On August 17, 2006, he obtained a

first, clerk's "seven day" extension, making his brief due August 28, 2006. He did not actually check out the record from the Clerk's office until August 17, 2006. On August 28, 2006, he filed a Motion for Extension of Time, and obtained a second extension to September 11, 2006. On September 11, 2006, he mailed for filing another Motion for Extension of Time, which was received and file-marked September 12, 2006. This Motion was apparently untimely filed. The Clerk's file contains a handwritten note which indicates his last Motion for Extension of Time was filed out of time, and that the Clerk's office spoke with Mr. Hamby's staff on September 13, 2006, and was told a motion to file a belated brief would be filed. There is nothing in the Clerk's file to show such a motion was filed. On October 25, 2006, the Appellees filed a Motion to Dismiss Appeal, to which Mr. Hamby failed to file any response. On November 15, 2006, the Court issued its Mandate, granting the Motion to Dismiss, ending his client's appeal.

**JEANETTE S. HEIMBAUGH, Bar No. 97040**, of Conway, Arkansas, was cautioned by Committee Consent Findings & Order filed April 23, 2007, on a Complaint filed by Lisa Kay Smith in Case No. 2006-081, for admitted violations of Rules 1.3 and 8.4(d) of the Model Rules of Professional Conduct. Ms. Smith hired Ms. Heimbaugh in June 2004 to represent her in a divorce proceeding. Ms. Heimbaugh filed the divorce complaint during the end of June 2004. Ms. Smith's husband was served with the divorce complaint but did not respond. A hearing was held in December 2004. Ms. Smith was granted a divorce from her husband by Judge Clawson at that time. At the time of the Affidavit executed by Ms. Smith for the formal disciplinary complaint, Ms. Heimbaugh had not finalized the decree nor had she been removed from representation of Ms. Smith. Ms. Heimbaugh did not act with diligence in her representation of Ms. Smith following the hearing in December 2004, when Ms. Smith was granted her divorce by Judge Clawson, Ms. Heimbaugh failed to cause the Decree to be presented to the Court until June 2006. Ms. Heimbaugh's failure to prepare and present the Decree from the hearing conducted during December 2004 caused Ms. Smith not to have her divorce finalized until June 30, 2006, even though Judge Clawson granted her a divorce from Bill Smith during the hearing in December 2004 and her failure to present the Decree to the Court and have the same signed and filed prevented Ms. Smith, her client, from being able to enforce the Order of the Court when Mr. Smith failed to comply with the holding of Judge Clawson

**WILLIAM GLEN HOGGARD, Bar No. 2000064**, of North Little Rock, Arkansas, was cautioned by Committee Findings & Order filed May 3, 2007, on a Per Curiam Order Complaint in Case No. 2007-007 for violation of Rules 1.3, 3.4(c) and 8.4(d). The Arkansas Supreme Court referred Mr. Hoggard to the Committee in a Per Curiam delivered January 4, 2007. The Per Curiam granted Mr. Hoggard's Motion for Belated Appeal in the matter of *Deann Latiolais v. Arkansas Department of Health and Human Services*. The appeal was first dismissed by the Arkansas Court of Appeals in October 2006 because of Mr. Hoggard's failure to file a brief on behalf of Appellant after requesting multiple extensions of time to do so. After the matter was dismissed by the Court of Appeals, Mr. Hoggard filed a Petition to Rehear the Decision to Dismiss the Appeal. The Court of Appeals denied the Petition. The Supreme Court then considered it and treated it as a Motion to File Belated Brief. The Motion was granted and Mr. Hoggard was referred to the Committee.

Initially, Mr. Hoggard failed to file a brief in the Latiolais' appeal by the extension granted him until January 19, 2006, after obtaining six (6) extensions to file a brief and he did not file any pleadings on behalf of Ms. Latiolais from January 19, 2006, when he requested additional time to file a brief, until November 13, 2006, when he sought to have the appeal reinstated from the Court of Appeals' dismissal for his failure to file a brief. Mr. Hoggard's failure to file a brief for his client by the sixth and final extension resulted in the Arkansas Court of Appeals' dismissing the matter and created the need for additional pleadings and actions by the appellate courts in order to reinstate the appeal. His failure to be certain that he filed a brief on behalf of his client by January 19, 2006, or within the following nine months before the Court of Appeals dismissed the appeal created unnecessary delay in the appellate proceeding. Further, his failure to be certain that he filed a brief on behalf of his client by the date given as a final extension created the need for the Court to expend additional time and effort which would not have been necessary otherwise

**LAWRENCE C. HONEYCUTT, Bar No. 78074**, of Hot Springs, Arkansas, was cautioned by Committee Findings & Order filed February 12, 2007, on a self-referral arising out of his representation of Nickie Murray of Hot Springs in 2000-2004, in Case No. CPC 2005-158, for violation of Model Rules 1.3, 1.4(a) and 3.4(c). Mr. Honeycutt was employed by Vickie Murray to represent Nickie Murray, a minor, in relation to injuries sustained when a vehicle struck a corner of the Murray's home causing Nickie to fall and suffer injuries. Mr. Honeycutt filed suit in Garland County Circuit Court on Ms. Murray's behalf on March 24, 2000. The Garland County Circuit Court issued a pre-trial order requiring each party to file a pre-trial brief. Mr. Honeycutt admitted that the order was entered. Mr. Honeycutt did not file a response to the pre-trial order. On June 1, 2001, the court's case coordinator sent a letter to Mr. Honeycutt advising him that no response to the pre-trial order had been received and that, if no response were received by June 29, 2001, the Complaint would be dismissed for failure to comply with the court's pre-trial order. Mr. Honeycutt did not file a response to the letter from the case coordinator. On August 2, 2001, an order was entered dismissing Ms. Murray's lawsuit without prejudice for failure to comply with the pre-trial order.

In November, 2004, Mr. Honeycutt informed his client the case had been dismissed. He advised her that it was his reasonable belief that the lawsuit had little, if any, "value" based upon the circumstances of the alleged liability and the eventual insolvency of tortfeasor. After discussing the matter with the Murrays and a friend of theirs, Mr. Honeycutt prepared a \$4,000 promissory note from him to the Murrays, with a payment of \$550.00 to be paid immediately and the balance to be paid in full by June 1, 2005. He only made three payments. Ms. Murray filed suit against Mr. Honeycutt in August 2005. Mr. Honeycutt self-reported the matter to the Committee on Professional Conduct and a formal complaint was filed. Ms. Murray and Mr. Honeycutt settled the matter out-of-court.

**WILLIAM M. HOWARD, JR., Bar No. 87087**, of Pine Bluff, Arkansas, was cautioned, fined Five Hundred Dollars (\$500.00) and assessed costs of One Hundred Dollars (\$100.00) by Committee Consent Findings & Order filed June 15, 2007, for violation of Rules 1.3, and 8.4(d)

on a Per Curiam Order Complaint in Case No. 2007-029. Mr. Howard represented Ricky Reese on an appeal from a conviction in Chicot County Circuit Court. Mr. Howard tendered to the Arkansas Supreme Court Clerk a record of the circuit court proceedings to the clerk on December 20, 2006, but failed to comply with the requirements of Rule 5 of the Rules of Appellate Procedure–Civil, in obtaining an extension of time for filing the record. Mr. Howard was directed to file a motion for rule on the clerk and did so on February 2, 2007. On February 22, 2007, the Arkansas Supreme Court granted the motion and referred the matter to the Office of Professional Conduct.

**JUSTIN B. HURST, Bar No. 2005021**, of Hot Springs, Arkansas, entered into consent to discipline and was cautioned and assessed \$50 costs by Committee Consent Findings & Order filed November 27, 2007, in Case No. 2007-084, on a complaint referred to the Office of Professional Conduct by the Arkansas Supreme Court for violation of Rules 1.3, 8.4(d). Mr. Hurst represented James Ray Creed in a criminal case in Hot Spring Circuit Court, Case No. CR 2006-195-2, in which Mr. Creed was found guilty of rape and was sentenced to a term of life imprisonment. A timely Notice of Appeal was filed by Mr. Hurst. The record on appeal was due to be filed with the Arkansas Supreme Court Clerk on or before March 26, 2007. On March 6, 2007, the Hot Spring Circuit Court granted a request for extension of time to file a record and the record was thereafter due to be filed on or before May 14, 2007. Mr. Hurst untimely tendered the record to the Clerk on May 30, 2006. On May 31, 2007, Mr. Hurst filed a Motion for Rule on the Clerk. The Arkansas Supreme Court issued a *Per Curiam* Order on June 21, 2007, granting the Motion for Rule on the Clerk and referred the matter to the Office of Professional Conduct. Mr. Hurst admitted in his response that his failure to file the record caused a delay in the orderly and timely resolution of appellate proceedings. He also admitted that his failure to file the record in a timely manner caused the court to expend additional time and effort addressing the matter which would not have been necessary had he timely filed the record.

**Q. BYRUM HURST, JR., Bar No. 74082**, of Hot Springs, Arkansas, was cautioned, fined \$500.0, and ordered to pay restitution of \$2,212.36 by Committee Findings & Order filed September 24, 2007, in Case No. 2007-070, on a complaint filed by Lee Jablonski, for violation of Arkansas Model Rule 1.16(d). Mr. Jablonski was a party in a divorce in Jablonski v. Jablonski, Faulkner County Circuit Case No. E-97-73, which became final in July, 1998. His appeal to the Arkansas Court of Appeals, as No. CA-99-1089, was affirmed as modified and reversed in part on September 6, 2000. Since September, 2000, there have been numerous Petitions for Contempt filed against him and Citations for Contempt entered against him. In July, 2003, he employed Mr. Hurst to sue his ex-wife for the harassment of the numerous Petitions for Contempt. Jablonski and Hurst entered into an agreement for representation on July 22, 2003, for a retainer of \$10,000, against which Hurst would bill at the rate of \$200 per hour. The engagement letter also stated the \$10,000 retainer was “nonrefundable.” Jablonski paid Hurst the \$10,000.

After July, 2003, Mr. Jablonski waited for Mr. Hurst to file suit for him. On August 31, 2005, Jablonski signed a Complaint prepared by Mr. Hurst. No suit was filed. Mr. Jablonski

made telephone calls to Mr. Hurst at his office to find out about the status of his case, but he received no real substantive communication from Mr. Hurst. By July 2006, Mr. Jablonski, despairing of Mr. Hurst's inaction, contacted Hot Springs attorney Byron C. Rhodes about taking the matter. Mr. Jablonski signed a Fee Agreement with Mr. Rhodes on July 10, 2006, and paid Mr. Rhodes a \$10,000 retainer. On August 16, 2006, Mr. Jablonski mailed a grievance against Mr. Hurst to the Office of Professional Complaint.

Letters and documents were exchanged between the Office and Mr. Hurst from November 28, 2006, through April 2007. In February 2007, Mr. Hurst provided a copy of his Jablonski file to Mr. Rhodes for his use in representing Mr. Jablonski. On April 24, 2007, Mr. Hurst provided Mr. Jablonski his first accounting for the \$10,000, which showed \$2,212.36 to be unearned. Mr. Jablonski has received no refund from Mr. Hurst. Mr. Hurst claimed Mr. Jablonski clearly agreed to a \$10,000 "nonrefundable" retainer for the representation. The written agreement between them is unclear on its face, and under the circumstances present, upon Mr. Jablonski's termination of Mr. Hurst's services, required a refund of the unearned fee paid is required pursuant to Model Rule 1.16(d).

**STEVEN R. JACKSON, Bar No. 97142**, of Fayetteville, Arkansas, was cautioned and fined \$1,000.00 and assessed costs in the amount of Fifty Dollars (\$50.00) by Committee Findings & Order filed April 2, 2007, for violations of Rules 1.3, 1.4(a)(2), 1.4(a)(3), 1.4(a)(4) and 1.16(d) on a Complaint filed by Edward K. Mullen in Case No. 2006-146. Edward K. Mullen is the President of Classified Accounts Management Company, Inc. (CAMCO). In 2001, CAMCO employed Mr. Jackson to collect from seventy-five debtors. Mr. Jackson provided CAMCO with a check in the amount of \$5,049.08 but failed to provide any documentation of the name of the debtor or the amounts collected so that CAMCO could credit the proper account. CAMCO requested that Mr. Jackson provide the necessary information but failed to respond to the request. CAMCO terminated the representation by Mr. Jackson and demanded a final accounting of monies received. Mr. Jackson sent a final accounting of total monies received for CAMCO and a check in the amount of \$1,873.12, but failed to provide an individualized accounting of the names and accounts from whom the money was received.

**N. DONALD JENKINS, JR., Bar No. 94231**, of Alma, Arkansas, was cautioned by Committee Findings & Order filed February 28, 2007, on a complaint by Jeffrey and Lori Sexton of Jonesboro, Arkansas, in Case No. CPC 2006-074, for violation of Arkansas Rule 1.4(a)(4). Jeffrey and Lori Sexton hired Mr. Jenkins to seek immediate removal of a tax lien garnishment from Lori's paycheck. Mr. and Mrs. Sexton met with N. Donald Jenkins, Sr., the attorney's father, in an office in Jonesboro. Mr. Jenkins, Sr. requested a \$900 fee which he apparently agreed to allow to be paid out over time because of the Sexton's financial situation. Mr. Jenkins, Jr. did not take action on behalf of the Complainants. Since Mr. and Mrs. Sexton hired the Jenkins Law Firm to assist them with the tax lien garnishment in May 2005, Mr. Jenkins Jr. failed to keep them informed of the efforts, if any, he had undertaken on their behalf. He also failed to return the messages from the Sextons seeking information about the legal matter

entrusted to him.

**CLAUDE RAYMOND JONES, Bar No. 78082**, of Harrison, Arkansas, was cautioned and ordered to pay restitution in the amount of \$3,351.20 to each complainant, by Committee Consent Findings & Order filed April 23, 2007, on a Complaint filed by Betty Albertson and John Smith in Case No. 2007-004, for a violation of Rule 1.8(c). Frances E. Weltch of Harrison, Arkansas, a widow, died testate in May 2000, at age 88 or 89, survived by a daughter, Betty Albertson, and a son, John Smith, both residents of Iowa. Ms. Weltch's long-time attorney in Harrison, Claude R. Jones, prepared a will at her direction that she executed on June 24, 1998. The will nominated Jones to be her executor, and left Ms. Weltch's entire estate to Jones at her death. Both her children were disinherited under the will. Jones never opened probate administration of her estate or offered the will for probate. Betty Albertson obtained a letter dated September 10, 1998, from Mahlon O. Maris, M.D., with the Claude Parrish Community Health Clinic of the Boone County area, in which Doctor Maris opined that Ms. Weltch was at the time an 87 year old female with paranoid delusional disorder, and series of other personal health and hygiene problems, and that because of her psychosis and medical problems she could not care for herself and that appointment of a guardian is imperative. The children contacted Jones about their mother's estate. In April 2002 Jones replied to their attorney in Iowa with a copy of the Weltch will and Jones's statement that "She left everything to me. However, I didn't think it was fair and I told Betty that she and your client would get a third each."

In February 2003, Jones sold some Weltch estate realty in Arkansas and sent checks for \$7,100.00 to each child, promising a complete accounting to them of the estate after the sale was finalized. From the \$13,800 left from the land sale, which Jones retained, he later claimed credit for paying estate obligations, including the funeral home bill of about \$4,600 in May 2003, which totaled \$7,177.67, leaving a balance of \$6,702.40 as Jones's net share of the estate. Mr. Jones provided this accounting to the children by his letter to Stark Ligon dated October 13, 2006, in reply to Ligon's letter of September 10, 2006, to Jones, written after Ms. Albertson filed her complaint against Jones in 2003.

**SUSAN JONES, Bar No. 81101**, of Royal, Arkansas, was cautioned by Committee Consent Findings & Order filed April 23, 2007, on a Complaint filed by Stephanie Brogdon in Case No. 2007-014, for violation of Rules 1.3, 1.4(a)(3), and 1.4(a)(4). Stephanie Brogdon retained Jones in March 2006 to file an uncontested divorce. After several months, Ms. Brogdon found it difficult to contact Jones regarding the status of her case. After attempts to contact Jones by telephone failed, Ms. Brogdon emailed Jones and threatened to file a complaint against her. Jones apologized for her failure to maintain communication, and she thereafter filed the divorce complaint in October 2006. When Jones realized that the court's file did not contain a waiver signed by Ms. Brogdon's estranged husband, she requested that Ms. Brogdon have him sign the waiver before a notary and then take it, along with the proposed decree, to the courthouse for the judge's approval. Ms. Brogdon took these documents to the courthouse on November 17, 2006, and the Order was entered on November 20, 2006.

**JACK R. KEARNEY, Bar No. 77194**, of Little Rock, Arkansas, was cautioned by Committee Findings & Order filed February 27, 2007, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of *Leon Harden v. State*, No. CR06-966, in Case No. CPC 2006-131, for violation of Arkansas Rules 1.1, 1.3, and 8.4(d). Mr. Kearney represented Leon Harden, III, at trial. Following the conviction, Mr. Kearney filed the Notice of Appeal, and sought to be relieved by the trial court. The trial judge denied the motion, holding that he had no jurisdiction to grant the request because the Notice of Appeal had already been filed. Concerned about the appeal being pursued, the trial judge filed a partial record for Mr. Harden in order for the Appellate Court to hear Harden's Motion to Be Appointed a New Attorney. After receiving the record, the Clerk's office put Mr. Kearney on notice that he had to file a Motion for Rule on the Clerk because of an untimely Order extending the time for filing the record on appeal. Mr. Kearney filed the Motion but did not address the Order, stating that the Motion for Extension of Time was timely. The Arkansas Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Committee.

**WALTER CRAIG LAMBERT, Bar No. 87100**, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed January 17, 2007, on a complaint based on information developed from the court file in No. CR04-615, *German Marroqui vs. State of Arkansas*, in Case No. CPC 2006-160, for violation of Model Rule 1.3. Mr. Lambert represented German Marroquin on appeal from a denial of a Rule 37 Petition by the Benton County Circuit Court. A timely Notice of Appeal was filed. Pursuant to Rule 5 of the Rules of Appellate Procedure—Civil, the record shall be filed with the clerk of the Arkansas Supreme Court within ninety days of the filing of the first notice of appeal. As the Notice of Appeal was filed on February 13, 2004, the record was due to be filed on May 13, 2004. The record was not tendered until May 21, 2004. On May 27, 2004, Mr. Lambert filed a Motion for Rule on the Clerk. The Supreme Court granted the Motion for Rule on the Clerk and referred the matter to the Committee.

**DENNIS R. MOLOCK, Bar No. 79211**, of Stuttgart, Arkansas, was cautioned by Committee Findings & Order filed January 31, 2007, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of *Steve Hill v. State*, No. CR-06-686, in Case No. CPC 2006-1116, for violation of Arkansas Rules 1.1, 1.3, and 8.4(d). Mr. Molock filed a timely Notice of Appeal for his client to both the original Judgment and Commitment Order and to the Amended Judgment and Commitment Order. Thereafter, Mr. Molock filed a Motion for Extension of Time to File the Record on Appeal. The Motion was filed within ninety (90) days of the second Notice of Appeal but not the first as it should have been. As a result the Order granting the Motion was also untimely. The Clerk would not file the record on appeal, only tendered it. Mr. Molock then filed a Motion for Rule on the Clerk, accepting responsibility for the late filing. The Per Curiam granted the Motion for Rule on the Clerk and referred him to the Committee.

**WILLIAM KURT MORITZ, Bar No. 99021**, of Hot Springs, Arkansas, was cautioned and assessed \$50 costs by Committee Findings & Order filed on October 29, 2007, in Case No. 2007-065, on a complaint filed by Daniel and Stephanie Padgett for violation of Rules 1.3, 1.4(a)(3),

1.4(a)(4), 1.16(d), and 3.4(c). The Padgetts employed Mr. Moritz for assistance in a bankruptcy matter for a \$900 fee. The Padgetts did not have a telephone number but did provide Mr. Moritz with a contact person. The Padgetts provided Mr. Moritz with their counseling certificates in February, 2007. The Padgetts would call Mr. Moritz to check on the status of their matter, leaving messages and telephone numbers for Mr. Moritz to call and update them on their matter. The Padgetts left letters from creditors with Mr. Moritz and asked him to call them. Mr. Moritz failed to respond to the requests. The Padgetts then proceeded to file the bankruptcy petition themselves. Their case was dismissed by the Court for failure to file the required documents. The Padgetts then employed new counsel. Mr. Moritz failed to pay his annual license fee on March 1, 2007, and was administratively suspended from March 2, 2007, until his license fee was paid on May 24, 2007. Despite the administrative suspension, Mr. Moritz continued to practice law.

**CHARLES DWAIN OLIVER, Bar No. 2001009**, of Hampton, Arkansas, was cautioned and fined \$1,000 by Committee Findings & Order filed September 19, 2007, in Case No. 2007-027, on a complaint filed by Wilson McCrackin, Jr., for violation of Rules 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 3.4(c), and 8.4(d). In December 2006, Mr. Oliver was appointed to represent Mr. McCrackin in his appeal to the Arkansas Court of Appeals. Mr. McCrackin's first appellate attorney filed a Motion to Withdraw and for Substitution of Counsel in November 2006, specifically requesting that Oliver be appointed, and Mr. Oliver was mailed a copy of the Motion. When the Court of Appeals granted the Motion, the Per Curiam Order was mailed to Mr. Oliver and it included the January 15, 2007, due date for Mr. McCrackin's brief. Oliver did not file a brief by that date, nor did he request an extension of time to file a brief. He took no action. Mr. McCrackin wrote to the Supreme Court's Criminal Justice Coordinator and asked about the brief. In her response explaining that no brief had been filed, she copied Oliver so that he would contact his client. He did not do so. Mr. McCrackin's prison records demonstrate that he was allowed to call Oliver and leave a message. Mr. Oliver did not return the message. The State filed a Motion to Dismiss the appeal. Mr. Oliver did not respond despite being served. McCrackin filed a response and let the Court of Appeals know that Oliver had not been in touch with him. The Court of Appeals denied the Motion to Dismiss, removed Mr. Oliver as counsel of record and appointed other counsel for Mr. McCrackin.

**CHARLES DWAIN OLIVER, Bar No. 2001009**, of Hampton, Arkansas, was cautioned and fined \$500.00 by Committee Findings & Order filed September 28, 2007, in Case No. 2007-043, on a complaint filed by Cara Free, for violation of Rules 1.4(a)(4), 1.16(d), and 4.4. [At the submission deadline, Mr. Oliver's time within which to file an appeal to the Arkansas Supreme Court had not expired.] In January 2006, Ms. Free hired Mr. Oliver to represent her and her children in their claims for personal injury as the result of an automobile accident. The agreement was that Mr. Oliver would receive one-third of any recovery. On that same date, Ms. Free signed a Letter of Representation with regard to her claims. There were no contracts signed by Ms. Free with regard to Mr. Oliver's representation of her children in their claims for injuries. Ms. Free hired Mr. Oliver because he is the local attorney in the community where she lives. He is the City of Hampton's prosecuting attorney and she is a court clerk for Calhoun County. Mr.

Oliver testified that he did not ever agree to represent Ms. Free's children. She believed, however, that he was representing all three of them.

When Ms. Free hired Mr. Oliver, she turned over all copies of notes and logs that she had maintained since the accident in December 2005. She also turned over all receipts for the hauling of hay, horses, etc., due to the fact that she owns a ranch and it was the main ranch vehicle that was totaled in the accident.

After seven (7) months of little contact, Ms. Free resolved to terminate Mr. Oliver's representation of her. When Mr. Oliver's representation was terminated, Ms. Free received a file from him that did not contain all of her information. She did not receive her notes, a newspaper article, or the receipts for hauling of hay, etc. According to Mr. Oliver, the only two things he did not have available when Ms. Free first came to his office to obtain her file were the newspaper article and the personal notes. Mr. Oliver testified that he mailed those items to Ms. Free a few days after she received the other portion of her file. Mr. Oliver did not have a copy of any transmittal letter to Ms. Free with him at the hearing. Ms. Free testified that she never received those documents from Mr. Oliver. Mr. Oliver testified that he kept the original of Ms. Free's file to send to her new attorney but acknowledged that he did not send it. When questioned by a member of the Committee, Mr. Oliver stated that he did not have the original file with him at the hearing, having left it in his office in Hampton.

Ms. Free hired other counsel and he is handling the personal injury matter on her behalf. Her new counsel communicated on various occasions with Mr. Oliver to obtain information from Ms. Free's file. Mr. Boyd, the new counsel, also wrote Mr. Oliver to find out if he planned to place a lien on the proceeds of the settlement or other recovery. Mr. Oliver failed to respond. Mr. Oliver's failure to communicate with Mr. Boyd was not only an annoyance, but also slowed down the process of her pursuing the claims for injuries.

**JAMES M. PRATT, JR., Bar No. 74124**, of Camden, Arkansas, was cautioned by Committee Consent Findings & Order filed May 21, 2007, on a Complaint filed by Rhonda Neal in Case No. 2007-026, for a violation of Rule 1.3. The divorce of Mr. Pratt's client Rhonda Neal's divorce was final on December 26, 2002, when the Decree was filed in Arkansas County, Arkansas. The Decree awarded her certain interests in her former spouse's pension, IRA, retirement or savings plan with his employer, Producers Rice Mill, Inc. An employer-approved qualified domestic relations order (QDRO) is required to adequately protect the rights of an "alternative payee" (here Ms. Neal) in such assets of a former spouse. Mr. Pratt took no action to prepare a QDRO until after Ms. Neal came to his office in December 2004 and inquired about the matter, and his office then realized he had failed to initiate any QDRO. Thereafter, it took him until September 8, 2006, to get final employer and court approval of a QDRO and have it filed with the court clerk. He failed to provide the employer with a file-marked copy of the QDRO, so the employer took no action on it until the Office of Professional Conduct provided such a copy to the employer on October 16, 2006. From an initial letter of inquiry on March 15, 2005, informing Mr. Pratt that Ms. Neal had filed a complaint, until October 16, 2006, the Office of Professional

Conduct made numerous contacts with him by letter, e-mail and telephone, urging him to timely accomplish the QDRO for Ms. Neal.

**EUGENE C. SAYRE, Bar No. 75111**, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed March 16, 2007, on a complaint filed by Richard Brown in Case No. CPC 2006-154, for violation of Model Rules 1.3, 1.4(a), and 8.4(d). Mr. Brown hired Mr. Sayre during March 2003 to represent him in a lawsuit against a private individual and the Arkansas Highway Transportation Department (AHTD), related to a portion of State Highway which had been abandoned and then destroyed by the private individual. The AHTD was not claiming any responsibility to the road. Mr. Brown had no access to his property and wanted the Highway Department to rebuild the road. Mr. Sayre filed a lawsuit on Mr. Brown's behalf. The Defendants filed a Motion to Dismiss. Mr. Sayre did not respond to the Motion. An Order dismissing the AHTD, its Director and its Commissioners was entered in October 2004. Mr. Sayre did not notify Mr. Brown of the dismissal. Mr. Brown learned of the dismissal from another attorney. In his consent to discipline proposal, Mr. Sayre admitted that he violated Rules 1.3, 1.4(a) and 8.4(d) of the Model Rules of Professional Conduct as set forth in the disciplinary complaint. Mr. Sayre explained that over the course of the time period from 2000 through 2005, he and Mr. Brown developed not only a professional attorney - client relationship but also a personal friendship. Mr. Sayre had many other events which took place in his professional and personal life in September and October of 2003, the months which followed the filing of the Motions to Dismiss. He was involved in very contentious litigation in Pulaski County. Then in October 2003, Mr. Sayre had to have four-way bypass surgery and was unable to return to normal working hours for approximately three months thereafter. By the time he returned to his regular practice, the time within which to respond timely to the Motion to Dismiss had long since passed. Mr. Sayre candidly admits that he did not ask for an opportunity to file a belated response. Mr. Sayre also explained that during 2004 and 2005, he was generally in contact with Mr. Brown.

**DENNIS SBANOTTO, Bar No. 83152**, of Fort Smith, Arkansas, was cautioned by Committee Consent Findings & Order filed April 23, 2007, on a Judicial Complaint from Circuit Judge Alan Epley of Carroll County in Case No. 2006-178, for violation of Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 3.4(c). In January 2003, Mr. Sbanotto petitioned to open probate administration of the estate of Alveda Hatfield in Carroll County Circuit Court - Probate Division, as No. P-2003-5. Her son, Darrin Hatfield of Berryville, Arkansas, was appointed Administrator, and thereafter Mr. Sbanotto served as the attorney in the probate administration. Filing a petition for payment of attorney's fees prepared by Mr. Sbanotto, on August 23, 2003, Mr. Hatfield obtained court approval to pay \$5,182.48 for Mr. Sbanotto's legal services to the estate. His fees were then paid in full. On September 3, 2003, an order was entered allowing payment of certain claims against the solvent estate. The case docket showed no activity from March 22, 2004, until May 19, 2006, when Judge Epley set the matter for hearing on July 18, 2006. He directed Mr. Sbanotto to be present at the hearing. Mr. Sbanotto did not appear.

The Estate had been ready to be closed for some time. Mr. Sbanotto has not been in contact with the Administrator, Darrin Hatfield, for some time. Mr. Sbanotto was contacted by

the Office of Professional Conduct by telephone and e-mail by October 19, 2006, and by letter of November 16, 2006, by Darrin Hatfield. Mr. Sbanotto responded to Mr. Hatfield by letter on December 1, 2006, offering to refund the full fee he had received in 2003, less out of pocket costs and asking to be allowed to withdraw from the representation. Mr. Sbanotto sent Mr. Hatfield a \$4,835.00 refund and was permitted to withdraw. Mr. Hatfield employed new counsel to conclude the Estate's remaining court business.

**JOHN SKYLAR TAPP, Bar No. 76123**, of Hot Springs, Arkansas, was cautioned and fined \$2,000 by Committee Findings & Order filed March 7, 2007, on a Per Curiam Order referral by the Arkansas Supreme Court in the appellate case of *State of Arkansas v. Alan D. Williams*, No. CR-03-252, in Case No. CPC 2006-102, for violation of Model Rules 1.3 and 8.4(d). The sanction was enhanced by the Panel's consideration of Mr. Tapp's prior disciplinary record. Mr. Tapp represented Alan Williams from October 28, 2004 until May 11, 2005. Williams entered a conditional plea of guilty, on a vehicle search issue, in Miller County Circuit Court, pursuant to Rule 24.3 of the Arkansas Rules of Criminal Procedure. After a hearing on November 1, 2004, the trial court denied the Motion to Suppress. The order denying the motion was signed on November 1, 2004, but not filed of record with the Miller County Circuit Clerk until November 29, 2004. Mr. Tapp filed a notice of appeal from the Order on Conditional Plea on December 2, 2004. The actual judgment in the case was not entered until December 17, 2004. Mr. Tapp did not file a notice of appeal from that judgment. Mr. Tapp stated that he was employed by Mr. Williams in October 2004, and was never paid. Mr. Tapp stated that following the hearing on the Motion to Suppress, he repeatedly called Mr. Williams asking whether Mr. Williams wanted him to represent him in an appeal and whether Mr. Williams was going to pay as he had agreed to do. Mr. Tapp stated that he went ahead and filed a Notice of Appeal from the Order of Conditional Plea on December 2, 2004, despite not receiving payment.

As he did not receive a response from Mr. Williams, Mr. Tapp filed a Motion to Be Relieved as Counsel with the Arkansas Court of Appeals. On May 11, 2005, the Court of Appeals granted Mr. Tapp's motion. Mr. Tapp stated that he believed he had no further obligations on this legal matter. Mr. Williams filed a *pro se* Motion for Belated Appeal. In its Per Curiam Order of June 15, 2006, the Arkansas Supreme Court stated that prior case law made it clear that an appeal must be taken from the judgment and not from an order denying a motion to suppress. As no notice of appeal was entered following the judgment entered on December 17, 2004, there was good reason for granting Mr. Williams' Motion for Belated Appeal.

**MIMA CAZORT KILGORE WALLACE**, Bar No. 84156, of Fayetteville, Arkansas, was cautioned and fined the sum of Five Hundred Dollars (\$500.00) and assessed costs in the amount of Fifty Dollars (\$50.00) by Committee Findings & Order filed April 2, 2007, for violation of Rules 1.1, 1.3, 1.4(a), 3.4(c), and 8.4(d) on a Complaint filed by Caressa Hasha in Case No. 2006-145. Caressa Hasha was involved in a motor vehicle accident on April 27, 2004, and employed Ms. Wallace to represent her in the matter. Ms. Wallace filed suit in Benton County Circuit Court on April 27, 1997. The opposing party filed an answer to the lawsuit and a set of Interrogatories and a Request for Production of Documents. Ms. Wallace did not file a response

to the Interrogatories or Request for Production of Documents. The court directed that responses be filed. No responses were filed. On February 3, 1998, the court entered an Order to Dismiss with Prejudice. Ms. Hasha made attempts to contact Ms. Wallace but not able to speak to Ms. Wallace until May, 1998. Ms. Wallace admitted that she had been ill in November 1997 and that she had been slowed down as a result. In May, 1998, Ms. Wallace filed a motion to re-open the closed case. The court did not rule on Ms. Wallace's motion and it was deemed denied.

**ERNEST WAYNE WITT, Bar No. 76142**, of Ozark, Arkansas, was cautioned by Committee Consent Findings & Order filed January 8, 2007, on a complaint filed by William L. "Bud" Snow in Case No. CPC 2006-142, for violation of Arkansas Rule 1.1. Mr. Snow employed Mr. Witt to represent him in Logan County District Court in a civil matter against Joel Bankster. After the lawsuit was filed in District Court, there was an altercation between Mr. Bankster and Mr. Snow in December, 1999, in which Mr. Snow fell and hit his head on a rock. A hearing was held in the first legal matter. The court found in Mr. Snow's favor and against Mr. Bankster in the amount of \$500.00, costs of \$40.95, and attorney fees of \$50.00. The Judgment was filed on July 3, 2000, and Mr. Bankster thereafter filed a Notice of Appeal to the Logan County Circuit Court. Mr. Witt then filed an Amended Complaint in the appeal before the Logan County Circuit Court, adding a second count of civil battery count for the injuries that occurred on December 2, 1999. This Count II was not part of the case in district court. Mr. Bankster and his attorney filed a Motion to Dismiss or Strike Count II, stating the circuit court did not have subject matter jurisdiction as to the battery count as it had not been heard in district court. Mr. Witt filed a response and stated that the appeal from District Court to Circuit Court created a *de novo* trial and the pleadings could be amended by either party at that time. Mr. Bankster filed a Motion for Summary Judgment reasserting that the circuit court lacked subject matter jurisdiction. Mr. Witt responded to the Motion for Summary Judgment with the same arguments. The circuit court dismissed Count II of the Amended Complaint for lack of subject matter jurisdiction. The matter was remanded to district court. Despite assurances to Mr. Snow that his matter would be re-filed in district court, the matter was not re-filed and the statute of limitations on the battery expired.

**THOMAS A. YOUNG, Bar No. 92236**, of Marion, Arkansas, was cautioned and fined \$300.00 by Committee Findings & Order filed September 28, 2007, in Case No. 2007-066, on a complaint filed by Terry J. Nichols, for violation of Rules 1.1, 1.2(a), 1.3, 1.4(a)(1), 1.4(a)(3), 1.4(a)(4), 3.2, and 8.4(d). In July 2003, Mr. Nichols contacted Mr. Young to represent him in claims for injuries from an auto accident in which he was rear-ended. Young agreed to represent Nichols on a contingent fee basis. The accident occurred on July 18, 2003. The litigation to be filed involved a case of obvious liability because Nichols was rear-ended by another vehicle whose driver and passenger were illegally attempting to repossess Nichols' vehicle. Nichols' vehicle was totaled and he sustained injuries as a result of the accident.

Young filed Nichols' Complaint on November 28, 2005, against Defendants Christy Miller, Jerry Carter d/b/a J&C Repo, AAA Cash Fast, and Tennessee Title Loans. According to Young, he tried numerous searches as well as other resources to locate the defendants to serve them with the Complaint.

After being served with the Complaint, Practical Ventures, LLC, d/b/a AAA Cash Fast filed an Answer on December 27, 2005, denying that proper service had been accomplished. However, its Answer also contained an admission that it had retained J&C Repo (J&C are the initials of the first named defendants) which appeared to effectively admit that the driver was an agent of that company. Young explained that he was on vacation when the Answer was filed by Practical Ventures LLC and one of his secretaries filed it without showing it to him.

On January 25, 2006, Young obtained an Order of Voluntary Dismissal without Prejudice of Defendant AAA Cash Fast. He never took any action to amend the complaint to name Practical Ventures, LLC as a defendant after dismissing AAA Cash Fast. Young never discussed the non-suit with Nichols, nor what effect it might have on recovery for his claims for injuries. Tennessee Title Loans had apparently previously made a loan on the vehicle and been paid in full and was inappropriately named as a defendant in the lawsuit. Young allowed the statute of limitation to expire as to one of the proper parties, leaving Nichols with no legal recourse against a party who could be held accountable and liable for his injuries and property damage.

On March 8, 2006, Young filed a Motion for Extension of Time to Obtain Service on Christy Miller and Jerry Carter. Young stated that Nichols fired him on March 13, 2006. There was no Motion or other pleading in the file demonstrating, that based on his belief that he had been fired, that Young took any action to be relieved from representation. He remained as counsel of record for Nichols on the matter throughout the entire time the matter was pending.

On March 14, 2006, Tennessee Title Loans filed its Answer to the Complaint. Young filed no other pleadings in the case file nor sought any discovery. On July 24, 2006, Young filed another Motion for Extension of Time to serve Christy Miller and Jerry Carter. Young asked for and received until November 23, 2006, to perfect service on Christy Miller and Jerry Carter.

Young presumably was unable to locate the driver and her business partner. Carter is a convicted child rapist. Attached to the formal disciplinary complaint was the printout from two different web sites listing information from the Tennessee Sexual Offender Registry with information including an address for Mr. Carter. Some law enforcement agency or the information contained in these on-line registries could have assisted Young in locating Carter, had Young followed through with requesting information.

Young took no action to file a Warning Order in order to perfect service after he was unable to obtain service through mail or personal service. The time for obtaining service expired before Young took any other action. On January 19, 2007, without discussing the matter with Nichols, Young filed a Motion to Nonsuit the cause of action. The Order was entered that date as well. Nichols learned all of this by going to the Crittenden County Circuit Clerk's office and reviewing the file.

During the period of time after Young filed the Complaint and he finally dismissed the matter, Nichols did not have communication with him. Young did not return telephone calls. On

two occasions when Nichols visited the office he was unable to speak with Young. On March 8, 2006, Nichols wrote Young and delivered the letter to him, asking Young to release the file to him. Young did not do so, nor did he contact Nichols after receiving the letter.

Nichols again wrote Young in January 2007, requesting that Young release the file, without lien. Nichols offered to pay Young \$500 to cover his out of pocket expenses. Nichols included his cell phone number along with his address so Young would be able to reach him. It was after Young received the letter that he filed the Motion to Nonsuit and obtained the Order granting the same. Nichols was greatly concerned that Young's actions and inaction have caused him to lose any opportunity he may have had to recover for his injuries.

Young denied that he was responsible for any prejudice to Nichols because he did not believe he had any obligation to Nichols after March 13, 2006. He placed the blame for the matter being barred with Nichols for not picking up his file in a timely manner in March 2006.