

2014 Annual Report

Arkansas Supreme Court

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

Rebsamen Corporate Square
2100 Riverfront Drive, Suite 200
Little Rock, AR 72202-1747

(501) 376-0313
1-800-506-6631
(501) 376-3438 Fax

Arkansas Judiciary Homepage
<http://courts.arkansas.gov>

Arkansas Attorney Discipline Homepage
http://courts.arkansas.gov/professional_conduct

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. The Committee again submitted major proposed revisions of the Procedures to the Court on December 15, 2010, which were adopted by the Court in its Per Curiam issued and effective May 26, 2011, found at 2011 Ark. 242.

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 391-513 of the 2014 Court Rules, Volume 2, of the Arkansas Code. The attorney discipline Procedures implementing these Rules are in the same Volume 2, at pages 339-386. On May 26, 2011, the Supreme Court adopted and made effective significant revisions to the Procedures, in a per curiam found at 2011 Ark. 242.

Mission: The purpose of lawyer discipline and disability proceedings is to maintain appropriate standards of professional conduct in order to protect the public and the administration of justice from lawyers who have demonstrated by their conduct that they are unable or are likely to be unable to properly discharge their professional duties. Standard 1.1 of the ABA’s 1979 Standards for Lawyer Discipline and Disability Proceedings.

II. Structure

1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2014, the Committee continued to operate in the new model of four Panels authorized by the Supreme Court as of January 1, 2002, designated Panels A, B, C, and D (Reserve). Each panel is composed of seven members appointed by the Arkansas Supreme Court.

Five members 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 Court from the State at large. Panel membership in 2014 was as follows:

Panel A: T. Benton Smith, Jr., Jonesboro, Attorney, First Congressional District
Steven Shults, Little Rock, Attorney, Second Congressional District
Jerry Pinson, Harrison, Attorney, Third Congressional District
Michael Boyd, Magnolia, Attorney, Fourth Congressional District
Danyelle Walker, Little Rock, Attorney at Large
Karolyn Jones, North Little Rock, Non-attorney at Large
Elaine Dumas, Little Rock, Non-attorney at Large

Panel B: Michael Mullally, Jonesboro, Attorney, First Congressional District
Henry Hodges, Little Rock, Attorney, Second Congressional District
James Dunham, Russellville, Attorney, Third Congressional District
Stephen Crane, Magnolia, Attorney, Fourth Congressional District
Niki Cung, Fayetteville, Attorney, Attorney at Large
Sylvia S. Orton, Little Rock, Non-attorney at Large
Carolyn Morris, Danville, Non-attorney at Large

Panel C: Honorable Kathleen Bell, Helena, Attorney, First Congressional District
Michael Mayton, Little Rock, Attorney, Second Congressional District
Tonya Patrick, Fayetteville, Attorney, Third Congressional District
Joseph Hickey, El Dorado, Attorney, Fourth Congressional District
Scott Stafford, Little Rock, Attorney, At Large
Shelia Brown, Pine Bluff, Non-attorney at Large
Mark Limbird, Scranton, Non-attorney at Large

Panel D: Laura E. Partlow, West Memphis, Attorney, First Congressional District
(Reserve) Joe A. Polk, Little Rock, Attorney, Second Congressional District
William P. Watkins, III, Rogers, Attorney, Third Congressional District
James A. Ross, Jr., Monticello, Attorney, Fourth Congressional District
E. Kent Hirsch, Springdale, Attorney at Large
Sue Winter, Little Rock, Non-attorney at large
Ronnie Williams, Menifee, Non-attorney at large

The 2014 Executive Committee consisted of:

T. Benton Smith, Jr., Jonesboro, Panel A, Committee Chair
Carolyn Morris, Danville, Panel B, Committee Secretary
Danyelle Walker, Little Rock, Panel A Chair
Stephen Crane, Magnolia, Panel B Chair
Judge Kathleen Bell, Helena, Panel C Chair

The 2015 Executive Committee will consist of:

Stephen Crane, Magnolia, Panel B, Committee Chair
Karolyn Jones, North Little Rock, Panel A, Committee Secretary
Michael Boyd, Magnolia, Panel A Chair
Niki Cung, Fayetteville, Panel B Chair
Hon. Kathleen Bell, Helena, 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. Panel D members are substitutes as needed for members of the other three panels who may not be available or who recuse in a case.

COMMITTEE MEETING CALENDAR:

Panel A meets on the third Friday of the months of January, March, May, July, September, and November.

Panel B meets on the third Friday of the months of February, April, June, August, October, and the second Friday of December.

Panels C and D meet “on call” for special settings of hearings.

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 offices at the Rebsamen Corporate Center at 2100 Riverfront Drive, Little Rock, Arkansas 72202. 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 budget of the Committee and Office for 2014-2015 is about \$950,000, totally funded by the Supreme Court by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court. No state or taxpayer funds are directly provided to support the office and committee.

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. In addition to Executive Director Stark Ligon, the Office staff attorneys during most of 2014 were Michael E. Harmon - Deputy Director, Charlene Fleetwood - Senior Staff Attorney, and Caroline Bednar - Staff Attorney.

In calendar 2014, as in previous years, 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’s Unauthorized Practice of Law Committee and the 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 2014 calendar year, the Office opened new files on 744 grievances on attorneys alleged lawyer misconduct, up from 716 new files opened in 2013. See attached Exhibit A.

In 2014, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2014 and carry-over cases from previous years, 732 files were closed, up from 478 files closed in 2013.

IV. 2014 Formal Actions Initiated

In 2014, there were 51 new formal Complaint attorney discipline cases opened for Committee on Professional Conduct panel action, down from the 67 total new formal Complaint cases opened in 2013. In 2014, 63 formal Complaint files were closed, compared to 78 closed in 2013.

V. 2014 Final Committee Actions

Final action was taken in 43 formal Complaint files involving Arkansas attorneys during Calendar Year 2014 by the Office and the Committee on Professional Conduct. There are five primary forms of action, or sanction, that the Committee on Professional Conduct may take. The lowest, a warning, is non-public. The other forms of sanction - caution, reprimand, license suspension, and initiating disbarment proceedings - are public sanctions.

VI. 2014 - Most Common Rule Violations

In the 2014 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Rules 8.4(d) (not engaging in conduct prejudicial to the administration of justice) and 1.3 (acting with reasonable diligence and promptness in representing a client). The following listing contains the Arkansas Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the nine most frequently violated Rules in 2014.

Rule	Found	Rank (# Found)
1.1	5	
1.2(a)	2	
1.3	14	2
1.4(a)(1)	1	
1.4(a)(3)	6	3
1.4(a)(4)	4	
1.4(b)	1	
1.5(c)	1	
1.7(a)	1	
1.7(a)(1)	1	
1.7(a)(2)	6	4
1.14(b)	2	
1.16(a)(1)	2	
1.16(a)(3)	2	
1.16(c)	1	
1.16(d)	6	3
3.2	1	
3.4(a)	1	
3.4(c)	6	3
5.1(a)	1	
5.5(a)	1	
7.3(a)	1	
8.4(c)	4	
8.4(d)	18	1

VII. “Practice Aging” of Attorneys Disciplined (2014)

Of the 2014 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, attorneys were publicly sanctioned as follows:

Years Licensed	# of attorneys publicly disciplined	Percentage
1-10 (2005-2014)	8	29.6%
11-20 (1995-2004)	8	29.6%
21-30 (1985-1994)	4	14.8%
31-40 (1975-1984)	5	18.5%
41+ (before 1975)	2	7.4 %

(Several attorneys were publicly sanctioned more than once in 2014.)

VIII. 2014 Fines, Restitution & Costs

	Imposed in 2014	Collected in 2014
Fines:	13,750.00	19,090.00
Restitution:	2,500.00	5,250.13
Costs:	1,924.27	13,056.24
Total:	18,174.27	37,396.37

(Note: some of the collections in 2014 were assessed in cases finalized in earlier years. Costs in disbarment cases are rarely collected.)

IX. 2014 Trust Account “Overdraft” Reporting

- 67 Total reports were received in 2014 from all banks and reporters (compared to 52 in 2013). Most of these files were closed after a summary investigation and explanation by the attorney involved.
- 6 2014 files are still “open” to some extent, such as awaiting additional documentation from the attorney.
- 8 Of these 2014 reports have resulted in filing a formal Complaint to date, but all against the same attorney.
- 3 Number of 2013 reports still “open,” involving the same attorney, that are potential cause for some concern, although no client funds are believed to be unaccounted-for.

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.

X. Summaries of 2014 Public Sanctions

Please see attached Appendix B.

Appendix A

FOURTEEN YEAR STATISTICAL COMPARISON 2001-2014 (Unofficial - as of 12-31-14)

Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Files opened	873	1,028	972	892	826	804	819	859	861	888	735	794	716	744			
Closed by staff	691	737	825	796	868	1137	784	786	742	845	806	646	478	732			
Complaints filed	149	186	200	164	159	156	140	114	144	119	97	85	67	51			
Appellate Refers	34	45	50	40	34	39	50	33	41	18	17	40	7	14			
Judicial Refers	13	12	12	8	8	19	6	4	4	6	10	18	3	8			
Other/by Attys				24	7	16	9	15	15	7	14	38	37	28			
Complmts closed	135	178	185	211	181	173	182	122	128	119	106	74	78	63			
No Actions	12	30	15	24	18	19	13	10	11	10	7	4	4	5			
Warnings	45	53	54	38	33	53	41	37	46	26	20	13	8	10			
Cautions	14	31	28	53	41	29	34	20	28	15	24	8	10	17			
Reprimands	26	35	37	36	31	30	26	14	14	19	20	11	11	5			
Suspensions	19	14	20	9	17	12	23	12	10	10	11	9	12	4			
Surrenders	13	5	5	11	6	7	1	6	5	3	14	8	3	2			
Merge/surrender		1	14	29	5	4	0	6	18	6	9	1	1	2			
Disbar initiated	6	3	3	3	7	2	1	1	2	1	2	1	4	2			
Disbarments		0	0	3	0	2	2	2	4	3	0	0	5	2			
Reinstated	3	3	8	10	13	11	6	0	6	2	2	5	9	7			
Consents	13	35	54	71	51	64		45	50	28	29	18	7	8			
Refer to ArJLAP	N/A	2	0	0	1	3	0	0	0	0	0	0	0	0			
# Attys Public Sanctioned*	57	61	72	101	102	68	67	49	44	44	60	29	30	27			

* 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.

2014 ANNUAL REPORT - APPENDIX B

ATTORNEY "PUBLIC" DISCIPLINE SUMMARIES

DISBARRED:

DAVIS, LISA DIANE, Bar No. 2001072, of Piggott, was disbarred by the Supreme Court by per curiam issued April 3, 2014, in Supreme Court Case No. D-13-428. The petition for disbarment recited complaints against Davis regarding the Bracken adoption case and the Brown and Crenshaw matters that a committee panel referred to disbarment, as well as the Bernard Lack Estate matter, the Kacey Johnson case, and the Franks-Cornett case which all went before a committee panel after the filing of the original petition for disbarment and resulted in public sanctions, to which Davis did not respond. Also included in the petition for disbarment under "overall fitness" were prior disciplinary sanctions against Davis since March 2012, including a three month license suspension in the Dalton matter, reprimands in the Knighten and Branson matters, and a twenty-four month license suspension in the Wolfenbarger matter. Davis failed to file a response to the petition for disbarment, failed to respond to a first motion for default judgment, failed to appear at a hearing in November 2013 on the motion for default, failed to file any response to a second motion for default judgment, and failed to file any brief to the Court.

HOGROBROOKS, HEATHER P., Bar No. 92029, of Memphis, Tennessee, was disbarred by Order of the Arkansas Supreme Court entered June 26, 2014. The Arkansas Board of Law Examiners (Board) referred Hogrobrooks to the Committee on Professional Conduct (Committee). Hogrobrooks filed a Petition for Reinstatement with the Board in each of 2003, 2007, and 2008. In 2003, the Board denied her application. She filed a notice of appeal of the Board's decision, but the appeal was dismissed for her failure to file a brief that complied with the Supreme Court Rules. In 2007, she filed a second petition for reinstatement which was denied by the Board. In 2008, when Hogrobrooks informed the Board that she wanted to appeal, she was informed she had to pay the costs of completing the record, which she refused to pay. Immediately thereafter, she filed a third petition for reinstatement in 2008. The Board denied the petition and referred the matter to the Committee. The record showed that Hogrobrooks had applied to take the Tennessee Bar Exam on four occasions. On each occasion Hogrobrooks failed to fully disclose to the Tennessee officials her disciplinary history in Arkansas. In Arkansas she was reprimanded in two separate matters in 1997, both involving appeals; suspended from the practice of law in 1998 for six months in an appellate matter; reprimanded in 1998; suspended from the practice of law in 2001 for one year in a matter where she failed to conduct discovery and failed to file a timely request for a jury trial; and reprimanded in 2003 for her conduct in an appellate matter.

The Committee directed the Office of Professional Conduct (Office) to initiate a disbarment action against Hogrobrooks, which was filed in the Arkansas Supreme Court in June, 2012, as Case No. D-12-459. After trial on August 22, 2013, Special Judge John Cole issued his Findings of Fact, Conclusions of Law, and recommendation of the sanction of disbarment with the

Supreme Court. Hogrobrooks was to file a brief by January 20, 2014. On December 30, 2013, she filed a Motion for Extension of Time to file her brief, which was granted to March 6, 2014. She failed to file a timely brief. On March 17, 2014, she tendered an untimely and non-compliant brief. On June 4, 2014, the Office filed a Motion for Judgment on the Pleadings and for Entry of Final Order of Disbarment. On June 26, 2014, the Arkansas Supreme Court issued its per curiam granting the Motion, and disbarred Hogrobrooks, stating she failed to file a brief in compliance with the court rules and by failing to file a brief, the Court was limited to the findings of fact and conclusions of law issued by the Special Judge, who found Hogrobrooks violated Arkansas Rules of Professional Conduct 1.1, 3.1, 3.3, 8.4(c), 8.4(d). The Special Judge found that Hogrobrooks' conduct was serious misconduct and that the following factors listed in Section 19 of the Procedures were present: 19.A(1), (2), (3), (4), (5), and (10), and aggravating factors 19.B(1), (2), (3), (4) and (5). The Court ordered Hogrobrooks disbarred. The pleadings, the Findings of Fact and Conclusions of Law, and the per curiam can be found on the Arkansas Supreme Court website or Court Connect website as *Ligon, Director v. Hogrobrooks*, Case No. D-12-459, or at 2014 Ark. 317.

SURRENDER OF LICENSE:

DUSTIN D. DYER, Bar No. 2003082, of Benton, Arkansas, in Supreme Court Case No. D-14-344, on April 18, 2014, petitioned to surrender his law license, in lieu of going through attorney discipline proceedings. The Supreme Court accepted his surrender by per curiam issued May 1, 2014, removing his name from the registry of Arkansas licensed attorneys and barring him from the practice of law in Arkansas. Dyer entered a guilty plea in United States District Court Case No. 11-CR-129 (ED/AR) on February 28, 2014, to the felony offense of use of a telephone to obtain controlled substances, and as a verbal addendum to his plea agreement and disposition order stated to the court he would surrender his Arkansas law license.

INTERIM SUSPENSION:

COLSON, DONALD W., Bar No. 2005166, of Saline County, Arkansas, on November 21, 2014, Panel A voted an interim suspension and that disbarment proceedings be initiated by the Executive Director in Case No. CPC 2014-041 on a complaint brought by Sharon Cornice regarding Colson's representation of her son on a criminal post-conviction matter, based on the panel's findings of violations of AR Rules 1.3, 1.4(a)(3), 1.16(a)(1), 3.2, 5.5(a), and 8.4(d) and consideration of Colson's prior disciplinary record. The interim suspension order was filed and effective on December 2, 2014.

DAVIS, ANDREA L., Bar No. 2008056, of Hot Springs, in Case No. CPC 2014-006, was placed on interim suspension by order filed February 5, 2014, as a result of a petition filed by the OPC Executive Director alleging Davis presently posed as substantial threat of serious harm to the public and her clients if she continued to practice law, as a result of multiple grievances filed against her, her personal situation, and pending criminal charges.

PACE, JAMES ROBIN, Bar No. 85123, of Bentonville, Arkansas, on November 21, 2014, Panel A voted an interim suspension and that disbarment proceedings be initiated by the Executive Director in Case No. CPC 2014-015 on a complaint brought by Benton County Circuit Judge Brad Karren and attorney Ted Holder of the Arkansas Securities Department (ASD) based on Pace's involvement in matters that were part of a civil regulatory suit brought by ASD against Pace and others, including a firm named Nick Lynn Technologies, Inc., and the panel's findings of violations of AR Rules 1.1, and 8.4(c). The interim suspension order and disbarment suit have not been filed yet as Pace has instead petitioned the Supreme Court to surrender his law license, now pending as Case No. D-14-1110.

SUSPENSION:

TAPP, JOHN SKYLAR "SKY", Bar No. 76123, of Hot Springs, Arkansas, had his law license suspended for ninety (90) days, was fined \$10,000, and ordered to pay \$753.50 costs by the Committee after a hearing, a decision affirmed by the Arkansas Supreme Court in Case No. 13-1055 in an opinion issued September 18, 2014, at 2014 Ark. 374. Based on a complaint by Nita Barga of Hot Springs, the Committee found Tapp violated AR Rules 1.7(a) and 1.9(a) (both on conflict of interest) and 8.4(a) (violating the Rules), (c) (conduct involving deceit or misrepresentation), and (d) (conduct prejudicial to the administration of justice). Tapp briefly represented Barga (the mother) as a paying client in a child custody matter in 2006 and he represented the father against Barga in the same matter and case in early 2012. On motion by Barga, the trial court disqualified Tapp in 2012 from representing the father. On appeal, Tapp argued the sanction was excessive. The Committee and the Court stated that Tapp's disciplinary history supported the sanction of suspension.

REPRIMAND:

BENNETT, JAMES BRUCE, Bar No. 81014, of El Dorado, Arkansas, in Committee Case No. CPC 2014-014, by Consent Findings and Order filed May 29, 2014, for his representation of Ms. Sheila Moorehead-Traylor in a personal injury matter, was Reprimanded and assessed costs for admitted violations of Rules 1.3, 1.4(a)(3), 1.4(a)(4), 8.1(b), and 8.4(c). In early August 2005, Traylor met with Bennett to discuss his representing her on a personal injury matter, where in 2004, she had fallen at a local store and sustained injuries. On September 8, 2005, for the store, State Farm wrote Traylor stating all medical billings received as of that date related to her injury had been paid and that in the absence of any other bills they were closing the case. Traylor did not agree with this and hired Bennett, providing him with the letter. On March 27, 2006, Traylor signed a contingency fee contract with Bennett against the store. Bennett took no action on her claim. Traylor met with Bennett on two occasions in 2006. Thereafter, Traylor attempted to contact Bennett, with no success until 2012.

In 2012, Traylor called the State Farm claim representative and was informed that her claim had been closed in 2007. Traylor then contacted Bennett and set up an appointment with him to discuss her case. The first appointment was not kept. They did meet on the second

appointment. On October 25, 2013, Bennett was contacted by the Office of Professional Conduct (OPC) regarding Traylor's grievance against him. On December 9, 2013, Bennett replied by letter to Ms. Moorehead-Traylor's allegations against him, denying representing Traylor on the matter, and stated he had returned her paperwork to her along with a letter advising her of his disinterest in representing her on the matter. Bennett also denied that Traylor had signed a contract for his representation on the store fall claim. On December 16, 2013, Bennett sent OPC a second letter, admitting he had lied in his first written response to OPC, and that he had falsified an April 7, 2006, letter. He admitted that he had taken Traylor's case, they had signed a contract for his services, and that her case "fell through the crack."

HORNER, MAX M., JR., Bar No. 2001067, of Little Rock, Arkansas, in Committee Case No. CPC 2014-013, by Findings and Order filed August 27, 2014, on a complaint based on an appellate opinion, was reprimanded for violations of AR Rules 1.1, 1.7(a), and 8.4(d). In 2005 Horner jointly represented spouses Marcus and Cynthia Rackley, on a joint fee, on multiple felony charges arising out of alleged sexual misconduct by Mr. Rackley with his step-daughter T. W., between 2002 and 2004. T. W. was the daughter of Cynthia Rackley. Marcus was tried to a Faulkner County jury in June 2005, resulting in verdicts of guilty on all counts and a thirty-seven year prison sentence. Marcus went to prison on June 27, 2005, and was still there as of January 31, 2014, according to the ADC Inmate Locator. The felony charge against Cynthia was later reduced to a misdemeanor, she was convicted of second degree endangering the welfare of a minor, and she received a suspended sentence.

Marcus' convictions were affirmed on direct appeal in 2007, where he was represented by different counsel. Marcus raised an ineffective assistance of counsel claim based on Horner's conflict-of-interest in the joint representation at trial. The court held Marcus failed to preserve his conflict-of-interest claim at the trial court level and rejected it on direct appeal. Marcus filed a petition for post-conviction relief, which resulted in a reversal and remand to the trial court in December 2010 for an evidentiary hearing. See Rackley v. State, 2010 Ark. 469. In a *pro se* appeal, on January 30, 2014, Mr. Rackley received a reversal and remand for a new trial, based on Horner's conflict-of-interest in jointly representing both Rackleys at the same time at his 2005 trial, for the reasons stated in the opinion.

KEETER, BOBBY K., Bar No. 77076, of Mena, in Case No. CPC 2013-028, on a complaint by Karen Duke, was reprimanded, fined \$2,500, and assessed \$382 costs by Hearing Findings & Order filed January 3, 2014, for a violation of AR Rule 1.4(a)(3). In December 2011, Duke engaged Keeter to represent her in her father's estate, and paid a \$500.00 retainer fee. In April 2012, Duke emailed Keeter expressing her frustration with the "stand-off" between the executrix and Duke. She requested that Keeter schedule the earliest possible hearing date. Between March and May 2012, Duke placed at least five phone calls to Keeter. Only one of those phone calls was returned. In May 2012, Duke sent Keeter a certified letter asking Keeter to promptly schedule a hearing, or send an itemized statement of services rendered along with reimbursement of funds remaining from the retainer. Keeter notified Duke that a hearing was set for 1 p.m. on June 13, 2012, in Mena. On June 12, while Duke and her roommate Smith were en route to Mena for the

hearing, Duke and Keeter spoke. Keeter informed Duke that there was no need for her to attend the hearing. Keeter then scheduled a meeting with Duke for 11 a.m. on June 13 to discuss the case. On June 13, Keeter advised Duke and Smith that John Maddox, a Mena attorney, had been appointed Special Executor of the Duke Estate.

In August 2012, Duke made several telephone attempts to obtain information from Keeter but got nothing of substance. On one call, Keeter answered and told her he would get an update from Maddox. On August 28, Duke called Maddox to discuss the Estate. Maddox denied being appointed Special Executor. By letter to OPC in March 2013, Maddox confirmed that he had never been appointed Special Executor of the Estate and was not familiar with the Duke estate. On August 29, 2012, Duke mailed a certified letter to Keeter terminating his representation. She requested a copy of her file, an itemized statement of services, and an appropriate reimbursement of funds remaining from the \$500 retainer. Duke received no response from Keeter. In his Response, Keeter stated that he had informed Duke he was only hoping to have the hearing scheduled on June 13, 2012, he had informed Duke it was probably going to be necessary to have a Special Executor appointed, and Keeter did contact Maddox about such appointment but Maddox declined. He did not tell Duke that the hearing was set for June 13 or that Maddox had been appointed as Special Executor of the Duke Estate. He sent Duke a letter in September 2012 enclosing a copy of his office file on the Duke Estate and informing her he had fully earned the \$500 retainer paid and there would be no refund.

By a unanimous vote, Keeter's conduct was found to have violated AR Rule 1.4(a)(3), when Keeter failed to keep Duke reasonably informed about the status of probate proceedings in that he failed to return her phone calls or emails requesting information regarding the Estate. By a 4-3 vote the hearing panel found Keeter's conduct did not violate AR Rule 1.3 (diligence). By a unanimous vote, Keeter's conduct was found not to have violated AR Rule 1.16(d) (return to client of property and papers at termination of the attorney-client relationship) or AR Rule 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

SAMMONS, GARY R., Bar No. 90091, of Hot Springs, Arkansas, in Committee Case No. CPC 2014-001, by Findings and Order filed September 18, 2014, after a hearing was reprimanded and fined \$5,000 on a complaint by Judge Marcia Hearnberger for violations of AR Rules 1.16(a), 1.16(d), 3.4(c), and 8.4(d). Sammons' time to file for an appeal to the Supreme Court expires October 18. On June 28, 2013, Sammons filed an Answer for Crystal Stevens, contesting a change of custody. By notice dated July 24, 2013, the court set a temporary hearing on August 14, 2013, at 1:15 p.m. Eleven minutes before the hearing, Sammons filed a motion to withdraw, stating he had not been fully retained, had been paid nothing, and had expended 3.5 hours, billed at \$525.00, on the case. The temporary hearing was conducted with Sammons in attendance, but he declined to provide any legal support for his client.

In a letter opinion of August 29, 2013, followed by an Order, the trial court found in favor of Mr. Stevens and granted a temporary change of custody to him. On September 23, 2013, counsel for Mr. Stevens filed a Motion to Compel, served on Sammons, raising the issue of

Interrogatories to Ms. Stevens served on Sammons on July 24, 2013, to which responses had not been made. Sammons filed a Response to Motion to Compel. On October 3, 2013, Sammons filed a Motion for Reconsideration, asking the trial court to reconsider its earlier decision to not allow Sammons to withdraw from Ms. Stevens' case. By Order filed October 7, 2013, the court granted Sammons' motion to withdraw.

WILSON, JIMMIE LEE, Bar No. 73128, of West Helena, Arkansas, in Committee Case No. CPC 2014-027, by Findings & Order filed on October 14, 2014, was reprimanded and fined \$2,500 on a complaint by attorney Chet Dunlap for violations of AR Rule 3.4(c), and also additionally reprimanded and fined another \$2,500 for his failure to file a response to the Complaint. In assessing these sanctions, the panel stated it considered Wilson's prior disciplinary record. Wilson failed to pay his 2014 Arkansas law license renewal fee when due by March 5, 2014, (deadline extended from March 1 due to bad weather and clerk's office closing), resulting in his law license being automatically administratively suspended until he paid his required renewal fee. As of April 25, 2014, he had not paid his 2014 fee and had his law license reinstated to good standing from its suspension. He also failed to timely pay his law license fee for the years 2004-08 and 2010-13.

On April 17, 2014, while his Arkansas law license was in suspended status, in Poinsett County Circuit Court No. E-92-291 on behalf of his client Perry Vann Mr. Wilson filed two pleadings which were served on Chesley "Chet" Dunlap of Trumann, Arkansas, attorney for Pamela Tate. On April 22, 2014, Dunlap referred the matter to OPC alleging Wilson was practicing law at a time when his Arkansas law license was in suspended status. According to the clerk's records, Wilson paid his 2014 fee on May 5, 2014, the same day he signed for certified mail service of the Summons and this Complaint. The Arkansas Supreme Court's decisions in Chandler v. Martin, 2014 Ark. 219 and Williams v. Martin, 2014 Ark. 210, holding Court Rule VII(C), the automatic administrative license suspension provision upon non-payment of the annual license renewal fee, was unconstitutional and enforcement was enjoined, was not issued until 5-14-2014, after this Complaint was filed on April 30, 2014.

CAUTION:

BENNETT, JAMES BRUCE, Bar No. 81014, of El Dorado, in Case No. CPC 2013-062, by Consent Findings and Order filed January 14, 2014, on his representation of Ms. Doris Johnson's daughter in a criminal matter, was cautioned for violations of AR Rules 1.3, 1.4(a)(3), and 8.4(d). In March 2012, Johnson hired Bennett to represent her daughter and paid him \$1,500. Bennett failed to enter an appearance in the daughter's case or file any motions. Neither Johnson nor her daughter were able to speak with Bennett after hiring him. Johnson attempted to call Bennett several times, but she was never able to speak with him. Bennett was contacted by the Office of Professional Conduct ("OPC") about Johnson's complaint. OPC received a written response from Bennett in March 2013 in which Bennett admitted that he did not enter an appearance in the daughter's case, nor did he file any motion for discovery. Bennett also acknowledged that he had not spoken with Johnson until early 2013. Bennett failed to follow through on the case. Bennett

refunded Johnson the \$1,500 fee she paid him following her filing the complaint with OPC.

DAVIDSON, CHARLES D. “Skip,” Bar No. 73026, of Little Rock, in Case No. CPC 2013-066, by Consent Findings & Order filed March 21, 2014, on a complaint generated from an appellate file, was cautioned and fined \$500 for violating AR Rule 5.1(a) (a supervising or managing lawyer in a firm shall make reasonable efforts to ensure the firm has in effect measures giving reasonable assurance all lawyers in the firm conform to the rules of professional conduct). Davidson’s firm represented a contractor (May) in a dispute with the owner over a substantial lien on a project. The dispute went to arbitration, where an award for the contractor of \$393,995 plus attorney’s fees was made in September 2007. May sought to enforce the arbitration award in circuit court, for a declaration that the May lien was superior to a bank lien. May lost and appealed. In October 2010, the Court of Appeals found there was no appealable order and remanded the case to circuit court to settle the “finality” issue. Proceedings on remand resulted in the Order filed in August 2011, where the circuit court again found in favor of the bank and against May on the priority of liens issue. On August 25, 2011, May, through attorney Kent of Davidson’s firm, filed its Motion for New Trial and Motion for Reconsideration. On September 9, 2011, the Order denying the May motions was filed. The Davidson law firm was unaware of the order. On October 28, 2011, Kent filed May’s Motion to Request an Extension of Time to File Notice of Appeal, and Kent’s affidavit in support, stating that a firm employee (Wall) had made telephone contacts with the trial judge’s chambers to obtain information about the status of the post-trial motion and to set a hearing on the motion. In his response, Kent offered that he reasonably relied upon information given to him by Wall about her claimed contacts with the trial court. For several weeks after October 28, Davidson personally directed an in-house firm investigation to find evidence that would support statements made by Wall, and relied upon by Kent, in their affidavits to the court. He notified the court on November 21 that the firm had obtained telephone records that did not support certain facts in the affidavit given by Wall. On November 22, the circuit court entered its Order Denying Motion and Order to Appear and Show cause on December 1, 2011, directed to Kent and Wall.

In April 2012, the trial court issued a letter to the circuit clerk, among other matters stating at the hearing in December 2011 there was what the court termed “[F]rankly, unethical and improper conduct” with a firm employee lying to the trial court and submitting fraudulent documents to the court. The court stated its view that these actions by the firm were an attempt to get around the fact that the firm missed an appeal deadline. The court also stated it should have turned [Kent] over to the ethics committee. In July 2012, the firm tendered the May record to the Supreme Court Clerk. The clerk declined to file the record and the firm was directed to file a motion for rule on the clerk, which the firm soon filed. On August 14, 2012, the Supreme Court denied the motion and May’s effort at a legal remedy was concluded.

DEAN, CATHERINE PALMER, Bar No. 96034, of Osceola, Arkansas, in Committee Case No. CPC 2013-061, by Findings and Order filed August 4, 2014, was cautioned and fined \$750.00 for violations of Arkansas Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 3.2, and 8.4(d) on a complaint by James Hollis. In 2010, Dean was hired by Hollis to obtain guardianship of a

mentally ill sister. Dean's fee for the case was \$700.00. Dean filed a Petition for Ex Parte Emergency Appointment of Guardian of the Person and Estate. The emergency appointment was entered giving a sister temporary guardianship, with a hearing scheduled for November 9, 2010. Two extensions of the hearing were obtained. No action was taken by Dean for several months, so the temporary guardianship expired. After repeated attempted contacts by Hollis and his sister, in April 2011 Dean filed a second Petition for Ex Parte Emergency Appointment of Guardian of the Person and Estate. A second temporary guardianship was entered. A hearing was set for April 15, 2011. Again, Dean took no action on the matter after the April 2011, filing. Hollis and his sister again unsuccessfully tried contacting Dean. They learned that Dean had, without notice to them, closed her private law practice and taken a public sector job.

DEPPER, ROBERT L., Jr., Bar No. 81046, of El Dorado, in case No. CPC 2014-009, by Findings & Order filed October 15, 2014, on a complaint generated from an appellate file, was cautioned for violation of Rule 8.4(d) and assessed costs. Depper was retained counsel in Columbia County Circuit Court DR-2011-92. He filed a timely motion of appeal and designation of the record. He filed a motion to extend time to lodge record, the order to extend the time was granted, but was filed one day beyond the deadline. Depper filed a Motion for Rule on the Clerk, and the Arkansas Supreme Court denied the Motion, ending his client's appeal. Following a committee panel public hearing, by a 6-1 vote, Depper's conduct was found to have violated Rule 8.4(d). By a 4-3 vote, no violation of Arkansas Rule 1.3 was found.

HASS, J. REBECCA, Bar No. 2000172, of Fayetteville, in Case No. CPC 2013-047, by Findings and Order filed March 5, 2014, in her representation of Jennifer Harvey was cautioned and ordered to pay \$1,500 restitution for violations of AR Rules 1.3 and 8.4(d). Hass was engaged in November 2009 to defend Harvey on a petition to modify divorce decree and to pursue Ms. Harvey's counterclaim for contempt for failure to pay child support and alimony. Harvey paid Hass a \$5,000 retainer. After trial on December 16, 2009, Hass asked to submit a brief. The brief was due by December 18. On that date, Hass asked the court for additional time, and was given until December 21. Hass did not file her brief until January 19, 2010. On January 20 the ex-husband filed a motion to strike Hass's brief, which brief the court struck on February 4. The court entered an order reducing Mr. Harvey's child support payments for his three children retroactive to February 3, 2009, the date he filed his petition.

On February 22, 2010, Hass filed a motion for reconsideration on the issues of the reduction in child support and attorney's fees for Ms. Harvey. The court took no action on the motion, and after it was deemed denied, Hass filed a notice of appeal from both orders. Hass informed Ms. Harvey that she would charge a non-refundable retainer of \$3,000 for the appeal, due on the date the transcript was lodged, and an additional \$250 per hour to complete the appeal. Hass also informed Ms. Harvey she would be required to pay a \$750 retainer to pursue a contempt action for unpaid child support and alimony. Because she was unable to pay those fees, Ms. Harvey did not pursue an appeal.

HILL, DONALD C., Bar No. 2008105, of Hot Springs Village, Arkansas, in Committee Case

No. CPC 2014-025, by Findings and Order filed October 2, 2014, was cautioned for his conduct in the representation of Kristin Kuelbs in the matter of Kristin Kuelbs, Donald Hill, and Edwardena Hill v. Kimberly Hill, CA 09-1326. In 2007, Hill moved his sister Kristin Kuelbs to Garland County, Arkansas. His other sister, Kimberly Hill, then filed a Petition to be appointed as guardian for Kelbs. Hill initially hired Attorney Justin Hurst to represent himself and his wife Edwardena Hill. At some point, he also hired Mr. Hurst to represent his sister Kristin. During the case, Kristin was appointed several guardians, including Hill at one point. After being appointed guardian, Hill took on legal representation of Kristin as well. On March 19, 2009, the Court appointed Kimberly as Kristin's guardian after Hill failed to follow the court's order to have Kristin evaluated.

This appeal was one of five appellate opinions issued on appeals filed by Hill in the probate matter. The first appeal was from the probate court's guardianship ruling and other intermediate rulings. The probate court continued to issue orders in the case while the first appeal was pending. The second appeal challenged the probate court's appointment of Kimberly as guardian and the probate court's jurisdiction to enter decrees after the first notice of appeal was filed. Both the first and second appeals were submitted simultaneously, and both affirmed the probate court's rulings. Hill filed a third appeal again challenging Kimberly's appointment as guardian and the probate court's jurisdiction to enter three specific orders after the first appeal was filed. The third appeal was dismissed as to the issue of Kimberly's appointment as guardian. This opinion arose from an issue raised in the third appeal, specifically the probate court's orders entered on March 26, 2009, April 2, 2009, and April 24, 2009.

All appeals in the probate case were filed by Hill and/or Justin Hurst on behalf of Hill, his wife, and Kristin. In the October 26, 2011, opinion, the Court of Appeals addressed Hill's representation of Kristin. In orders of December 23, 2008, and January 5, 2009, the probate court disqualified Hill from acting as Kristin's attorney because of a conflict of interest. Despite having been disqualified as Kristin's attorney, Hill persisted in filing pleadings and appeals on Kristin's behalf. The Court of Appeals found that the notices of appeal in the case were filed in April and September 2009, long after the disqualification orders were entered. The probate court never reinstated Hill as Kristin's attorney, nor was there any authority by Kristin's guardian, Kimberly, for Donald Hill to thereafter file appeals on Kristin's behalf.

HURST, JOSH Q., Bar No. 2004016, of Hot Springs, Arkansas, in Committee Case No. CPC 2012-054, by Consent Findings and Order filed August 15, 2014, on a complaint by Donna "Tina" House, was cautioned for violations of AR Rules 1.5(c), 1.7(a)(2), and 1.16(d). House was a passenger in a vehicle driven by Frank Staggs, her former spouse, which was involved in a motor vehicle accident in Hot Springs on January 5, 2007, in which House suffered injuries and the other driver died. Staggs set up an appointment and House and Staggs met with Josh Hurst in January 2007. To her knowledge, House did not have a written fee agreement with the Hurst law firm, but Hurst told her his fee would be a percentage of any recovery. During the meeting, House sign a medical authorization form so Hurst could obtain House's medical records. House thereafter assumed Hurst was her attorney for the 2007 accident matter. She was not informed that Hurst might also represent Staggs in the same matter as her claim. On September 2, 2008,

House was able to meet with Hurst and he told her he acted to ensure that she continued receiving medical care.

After her calls were not returned by Hurst, on September 12, 2008, House chose Little Rock attorney Greg Kitterman to represent her in the matter. On the same date House faxed a letter to Hurst informing him she had employed Kitterman and stating she would be by the Hurst office to pick up a copy of her file on September 15. When House appeared at the Hurst office to get her file, she was provided with a document stating Hurst was asserting a thirty percent attorney's fee lien in her matter. House was asked to sign the document in order to get a copy of her file; she refused; and she got no file. House heard that a lawsuit had been filed in Garland County Circuit Court on her behalf. At the courthouse, House discovered that a lawsuit, naming Staggs and House as plaintiffs, had been filed by Josh Hurst on September 19, 2008, seven days after House discharged Hurst. After discharging him on September 12, 2008, House never assented to a lawsuit being filed by Hurst on her behalf. At no point from the beginning of the representation to September 12, 2008, did House, the passenger, agree to be represented by Hurst while Staggs, the driver, was also represented by Josh Hurst in the same underlying matter, and filed as part of her claim or court case. House may have had legal claims to assert against Staggs as the driver of the vehicle in which she was a passenger.

House's new attorney, Kitterman, wrote and faxed a letter dated October 14, 2008, to Hurst requesting certain information about Hurst's actions concerning the lawsuit filed in Garland County Circuit Court. Kitterman stated in his letter that he had called Mr. Hurst's office several times but had received no returned telephone calls. No response was received to the October 14, 2008, letter. Kitterman wrote a letter dated January 29, 2009, to Hurst again requesting certain information, specifically a complete copy of House's file, including medical bills and records, any documentation associated with the lawsuit field, and documentation of any offers that had been made on House's behalf. No response was received. Kitterman also wrote Mr. Hurst letters dated June 19, 24, and July 1, 2009, asking Hurst for a copy of the House file, as Kitterman was in the final stages of negotiating a settlement for her and wanted to be sure he had not missed any bills that might appear in the Hurst file. Kitterman finally got a copy of the file from Hurst in July 2009. In late July 2009, Kitterman settled House's claim with Farm Bureau for \$75,000. No fee was paid from her settlement to Hurst.

HURST, JOSH Q., Bar No. 2004016, of Hot Springs, in Committee Case No. CPC 2014-043, by Consent Findings & Order filed on December 12, 2014, was cautioned on a complaint by Thomas Landis of Lawton, Oklahoma for violations of AR Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), and 8.4(d). Landis employed Hurst, for a \$2,500 flat fee, as successor counsel to defend Landis in a lawsuit in Montgomery County Circuit Court, allegedly Hurst did not enter and appearance or keep Landis properly informed of the status of the case, and Landis was forced travel to Arkansas to check the case file and to employ new counsel as the date for depositions approached. Hurst was slow to provide his Landis file to new counsel and declined Landis' request for a fee refund. Landis sued Hurst over the fee refund in district court and was awarded judgment for \$1,825.00 plus costs.

HURST, JUSTIN B., Bar No. 2005021, of Hot Springs, Arkansas, in Committee Case No. CPC 2014-026, by Findings and Order filed October 2, 2014, was cautioned for his conduct in the representation of Kristin Kuelbs in the matter of Kristin Kuelbs, Donald Hill, and Edwardena Hill v. Kimberly Hill, CA 09-1326. In 2007, Hill moved his sister Kristin Kuelbs to Garland County, Arkansas. His other sister, Kimberly Hill, then filed a Petition to be appointed as guardian for Kuelbs. Hill initially hired Justin Hurst to represent himself and his wife Edwardena Hill. At some point he also hired Hurst to represent his sister Kristin. During the case, Kristin was appointed several guardians, including Hill at one point. Hill was later removed by court order. On March 21, 2008, the probate court entered an order recusing Hurst and his law firm as Kristin's attorney. Hurst was allowed to continue his representation of Hill and his wife. On April 9, 2009, Hurst and Hill filed a Notice of Appeal on behalf of Hill, his wife, and Kristin, appealing any and all orders entered between March 5, 2009, and April 9, 2009. On September 8, 2009, Hurst and Hill filed another Notice of Appeal, appealing all orders entered in the probate case since April 9, 2009. On September 9, 2009, Hurst and Hill filed another Notice of Appeal, making corrections to the notice filed on September 8.

This appeal is one of five appellate opinions filed in the probate matter and arises from an issue raised in the third appeal, specifically the probate court's orders entered on March 26, 2009, April 2, 2009, and April 24, 2009. The appellant's argued that the orders were entered erroneously and without hearing or notice. The Court of Appeals ruled that it had no jurisdiction to hear an appeal of the April 24, 2009, order as the appeal was not timely filed. The two remaining orders were timely appealed, however the court ruled that the argument was raised for the first time on appeal and the court does not address arguments raised for the first time on appeal. All appeals in the probate case were filed by Hurst and Hill on behalf of Hill, Mrs. Hill, and Kristin Kuelbs. In the October 26, 2011, opinion, the Court of Appeals addressed Hurst's representation of Kristin. Despite having been recused, Hurst persisted in filing pleadings and appeals on Kristin's behalf. The Court of Appeals found that the notices of appeal in the case filed in April and September 2009, were filed long after the recusal order removing Hurst as Kristin's attorney. The probate court never reinstated Hurst as Kristin's attorney, nor is there any authority by Kristin's guardian, Kimberly Hill, for Hurst to file appeals on Kristin's behalf.

KENT, BENJAMIN A., Bar No. 2006273, of Little Rock, in Case No. CPC 2013-067, by Consent Findings & Order filed March 21, 2014, on a complaint generated from an appellate file, was cautioned and fined \$500 for violating AR Rules 1.1 (failure to monitor the status of a pending post-trial motion), 1.3 (lack of diligence), and 8.4(d) (conduct prejudicial to the administration of justice, by causing his client to lose the right to an appeal). This is a companion case to that involving Charles D. "Skip" Davidson (above), with the same facts.

KING, MICHAEL J., Bar No. 88124, of Hot Springs, in Committee Case No. CPC 2013-065, by Findings & Order filed on October 6, 2014, was cautioned and ordered to pay \$1,000 restitution on a complaint by Diane Dodd for violations of AR Rules 1.4(a)(4), 1.16(d), and 8.4(d). In July 2013, Dodd employed King to represent her in a child support termination matter

in Garland County Circuit Court, and paid him his requested full \$1,500 fee by check. Dodd and King went to court for a short hearing on July 15, 2013. Each party was directed to complete financial disclosure forms and the hearing was reset for November 4, 2013. From July 15 into late October 2013, Dodd had substantial difficulty contacting King about her case and approaching hearing. Dodd was finally able to contact King's wife by telephone and was assured King was going to represent Dodd at the November 4 hearing. Closer to the hearing, Dodd needed confirmation King would be there, or Dodd needed to employ another attorney. Dodd needed her fee money back, or at least a substantial refund from King, to be able to employ a new attorney. Dodd employed Hot Springs attorney Ben Bancroft to represent her at the November 4 hearing and paid him a \$750 retainer. Shortly before the hearing, Dodd was finally able to contact King. He informed her he was unable to give her any fee refund, even if he wanted to. Dodd gave King an opportunity to still represent her. King was asked to call Dodd the next day but did not do so. Dodd proceeded on with Bancroft. Dodd paid Bancroft a total of \$1,100 for him to finish her case. Since the November 4, 2013, hearing, Dodd has not been contacted by King, nor has King provided her any refund of unearned fee.

LITTLEJOHN, DAVID M., Bar No. 2008038, of Little Rock, Arkansas, in Committee Case No. CPC 2013-025, by Consent Findings and Order filed August 4, 2014, on a complaint by Judge Herbert Wright, Jr. and others, agreed to a caution for violations of AR Rules 3.4(c), 5.5(a), and 8.4(d). Littlejohn was licensed in Arkansas in April 2008, failed to complete the Professional Practicum requirement in 2008 or 2009, resulting in the suspension of his Arkansas law license on April 5, 2010. Mr. Littlejohn completed the Professional Practicum on November 12, 2010, and his license was reinstated from that suspension on November 16, 2010. At the time, the deadline for payment of the annual Supreme Court mandated renewal fee for Arkansas law licenses was March 1. Any license fee not timely paid resulted in automatic administrative suspension of the license on March 2, continuing until the license fee plus penalty fee is paid to the Clerk. Rule VII, Arkansas Supreme Court Rules Governing Admission to the Bar. Mr. Littlejohn was delinquent in paying his annual license renewal fee and his Arkansas law license was therefore suspended as follows: March 2 to November 16, 2010, March 2 to July 28, 2011, March 2 to May 31, 2012, and March 2 to March 8, 2013. Littlejohn was noncompliant in his CLE annual requirements and his Arkansas law license was therefore suspended from November 22, 2011 to March 28, 2013.

His Arkansas law license was suspended for noncompliance with the Professional Practicum rule, nonpayment of his annual license renewal fee, or CLE noncompliance or two of the three as follows: March 2 to November 16, 2010, March 2 to July 28, 2011, and November 22, 2011 to March 28, 2013. During periods when his Arkansas law license was in suspended status, Mr. Littlejohn practiced law in several cases in Saline County and Pulaski County Circuit Courts. In Pulaski County Circuit Court Case No. 60cr-12-263, State v. Brian Sims, a First Degree Murder case, in March 2013. Littlejohn was associated by lead retained counsel Horn in early March 2013 to assist in the Sims trial, set to start March 27, 2013. Horn went to the Supreme Court Clerk's office on March 8, 2013, and paid the \$300 required to remove Littlejohn's suspension for nonpayment of his 2013 annual license renewal fee.

Littlejohn participated in the trial of the Sims case during the State's case in chief. Information was presented on the second day of trial that Littlejohn's law license was still in suspended status. A mistrial was declared and the case is reset for trial in June 2013. On March 28, 2013, Horn and Littlejohn went to the Office of Professional Programs where Horn paid the \$250 fee required to complete the reinstatement of Littlejohn from his CLE suspension that commenced on November 22, 2011.

MAY, JOHN MARSHALL, Bar No. 2000039, of Harrisburg, in Committee Case No. CPC 2014-004, by Findings & Order filed May 27, 2014, on a complaint generated from an appellate file, was Cautioned for violations of AR Rules 1.3 and 8.4(d) and assessed costs. May represented Troy McCulley as retained counsel in a Poinsett County criminal case where a jury convicted McCulley. May filed a timely notice of appeal and designation of record, but he did not lodge the record and requested no extension prior to the expiration of the ninety day deadline. New counsel for McCulley filed a Motion for Rule on Clerk, and the Supreme Court remanded the matter back to circuit court to determine if May was asked to perfect the appeal. After a hearing, May was found to have been requested to file the appeal. The Supreme Court granted the Motion for Rule on Clerk and stated that "failure to perfect this appeal appears to lie with McCulley's trial counsel, Attorney John May."

OVERTON, JIMMY DON, Bar No. 2007029, of Little Rock, Arkansas, in Committee Case No. CPC 2014-011, by Consent Findings and Order filed September 19, 2014, on a complaint by Dr. Hussain Al-Rizzo, agreed to a caution for violation of AR Rules 1.3, 1.4(a)(3), and 1.4(a)(4). In June 2008, Dr. Al-Rizzo, a university professor, contracted with Mr. Coney of Little Rock for the construction of a home in Little Rock for about \$320,000. Al-Rizzo took possession of the new house in February 2009. Problems between Coney and Al-Rizzo arose, and in August 2009, Coney sued Al-Rizzo in Pulaski County District Court for \$5,000 allegedly unpaid by Al-Rizzo on the construction contract. Al-Rizzo employed Overton for representation on a one-third of any recovery contingency fee arrangement. Overton filed a counterclaim for \$119,620 against Coney for alleged construction defects and damages, and the case was transferred to Pulaski Circuit Court. Overton filed two amended Complaints, alleging breach of contract, breach of express warranty, breach of implied warranties, negligence, and fraud, and asked for a jury trial. Coney answered generally denying the Complaints and alleging set-offs.

Coney sent Interrogatories and Request for Production to Overton. After several attempts to get responses, an Order to Compel Discovery was entered July 16, 2010. There is no documentation available that shows Overton ever served responses on Coney's counsel. In June 2010, Coney's counsel served Plaintiff's First Requests for Admissions on Overton, who failed to file any responses. In July 2010, Coney filed a Motion and Brief to Deem Admitted Requests for Admissions. Overton filed no response. Al-Rizzo did not know of the existence of the First Requests for Admissions directed to him. The court entered an Order deeming the requests for admission as admitted. On September 14, 2010, Coney filed a motion for summary judgment, based on the deemed admitted requests for admissions. Overton filed no response. Al-Rizzo did not know of the existence of the motion for summary judgment. On October 12, 2010, summary

judgment was granted to Coney and the case was dismissed with prejudice. Al-Rizzo did not know of this order, was not informed of it by Overton, and only learned of it from another person at a later date.

By email on December 19, 2010, Overton discharged Al-Rizzo as his client, but did not inform Al-Rizzo of the true status of his case and claim - that it had been dismissed with prejudice by summary judgment in October 2010, if Overton was aware of that action. On January 27, 2011, Overton filed his motion to withdraw. No order granting withdrawal was entered because the case file was closed on October 12, 2010. On June 6, 2013, for Al-Rizzo, Little Rock attorney Tim Steadman wrote Overton, putting him on notice of Al-Rizzo's claims for legal malpractice in the Coney case, and asking that Overton's malpractice insurer be notified. Overton informed Steadman that he had no insurance coverage or carrier at the time, offered his version of events, and stated Al-Rizzo still had more than a year to refile against Coney with any additional claims not previously made. In July 2013, Al-Rizzo filed a pro se lawsuit against Overton and his law firm for legal malpractice and on other grounds and seeking money damages. Due to the adverse outcome of his litigation with Coney, Al-Rizzo had to pay Coney \$1,000.00 to finally settle Coney's claims against Al-Rizzo.

POTTER, JACOB S., Bar No. 2011144, of Texarkana, Arkansas, was Cautioned and assessed costs in Committee Case No. CPC No. 2014-010 by Findings & Order filed May 27, 2014, on a Complaint arising from a domestic relations matter filed by Theresa Lynn Reynolds. Reynolds responded to an advertisement by Potter for a free consultation, as she believed her husband was about to file for divorce. Reynolds advised Potter that she did not want a divorce as she did not have any money, did not have a job, and had no place to live. Reynolds advised Potter that she only wanted answers to questions she had concerning marital property and whether she could receive spousal support. Reynolds received the answers to her questions and was told if she wanted to file divorce Potter would need \$165.00. Reynolds left the office but did not sign a fee agreement and did not pay Potter any fees or expenses. Potter filed a Complaint for Divorce on Reynolds behalf. Reynolds called the Miller County Circuit Clerk to see whether her husband had filed for divorce and was told that he had not but that she had. Reynolds went to the clerk's office and obtained a copy of the complaint and went to Potter's office. Potter told Reynolds it was an honest mistake and he would have the divorce case dismissed. The case was dismissed on January 6, 2014, but Reynolds was not notified that it was dismissed until notified by the Office of Professional Conduct. Potter was found to have violated Arkansas Rules 1.2(a), 1.3, 1.4(a)(3), 8.4(c), and 8.4(d).

SCRITCHFIELD, DEE ANN, Bar No. 99070, of Bentonville, Arkansas, in Committee Case No. CPC 2014-012, by Consent Findings and Order filed April 18, 2014, regarding her representation of Marcie Treadwell in an appeal, was Cautioned and assessed costs for violations of Rules 1.1, 1.3, and 8.4(d). Treadwell's parental rights were terminated on October 3, 2013. Her notice of appeal was required to be filed no later than October 24, 2013. Scritchfield did not file the notice of appeal until October 25, 2013. On January 7, 2014, Scritchfield filed a Motion to File Belated Notice of Appeal in Court Case No. CV-14-22. In the motion, Scritchfield also

requested to be relieved as counsel for Treadwell, acknowledged that she received the signed notice of appeal from her client in a timely manner, but failed to file the notice with the court in a timely manner. The Supreme Court granted the request to file belated notice of appeal, but denied without prejudice the request to be relieved as counsel. The court found Scritchfield had not complied with Ark. R. Civ. P. 64, in that she had not served her client, Treadwell, or the Arkansas Public Defender's Commission with a copy of her motion to be relieved. The appeal is still pending with Scritchfield as Treadwell's counsel.

WILLIAMS, CHARLES BRIAN, Bar No. 83180, of West Memphis, Arkansas, in Committee Case No. CPC 2014-032, by Consent Findings and Order filed September 19, 2014, on a referral from the Court of Appeals, was cautioned for failure to file appellate briefs on behalf of several clients in a timely manner. Williams represented A. Green, Cory, Leal, Rimmer, J. Green, Cantu, Harris, Dove, Smith, Hicks, Schiffer, and Johnson on appeals from their probation revocations. Williams failed to file briefs on behalf of his clients in a timely manner, despite being given extensions of time to do so. Because of his conduct, the Court of Appeals removed Williams as attorney in several of the cases. With his consent, Committee found that Williams had violated Arkansas Rules 1.1, 1.3(b), 3.4(c), and 8.4(d).