



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

IN RE: JOSH QUINCY HURST
Arkansas Bar No. 2004016
Case No. CPC-2019-042

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Consent Findings and Order is based arose from information provided to the Committee by Darlene Carvin (Carver). The information related to Josh Hurst's (Hurst) representation of Carver in a civil matter beginning in 2010.

Respondent was served with Formal Complaint on December 19, 2019.

The attorney entered into discussion with the Interim Executive Director which has resulted in an agreement to discipline by consent, pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2011). Upon consideration of the formal complaint and attached exhibits, admissions made by Respondent, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Panel B of the Committee on Professional Conduct finds:

1. In 1997, attorney Janie Evins (Evins) of Hot Springs borrowed \$142,000 from Darlene Carvin (Carvin), a client, for business purposes. On January 16, 2002, Evins and Carvin entered into a settlement agreement calling for monthly payments by Evins for which Evins failed to pay.

2. In 2007, Carvin filed suit against Evins alleging breach of their settlement agreement. That case was dismissed without prejudice in August 2008.

3. In August 2009, using different counsel, Carvin refiled the suit against Evins as Garland Circuit No. 26cv-09-1251.

4. On January 6, 2010, the trial court gave notice of a one-day non-jury trial in the case, set for June 28, 2010. On the same day, a Pre-Trial Order was entered directing the parties to file pre-trial briefs by March 30, 2010, and further stating that failure to comply with the pre-trial order may result in sanctions.

5. On March 23, 2010, Josh Hurst (Hurst) substituted as Carvin's new counsel. Hurst obtained an extension of time to May 1 to file his pretrial brief, with the trial setting of June 28, 2010, approaching. On June 10, Hurst filed for a trial continuance. The continuance was granted.

6. On May 21, 2010, Evins filed her pre-trial brief and a motion to dismiss, based on failure of Carvin to timely file her pre-trial brief. Hurst then obtained a trial continuance to October 6, 2010. On September 30, 2010, Hurst filed Carvin's response to pre-trial order.

7. On October 4, 2010, Evins filed her renewed motion to dismiss due to failure to timely file pre-trial brief. On the same day, the trial court entered its order of dismissal without prejudice.

8. On April 12, 2011, Carvin, with new counsel, refiled suit against Evins as Pulaski County Circuit case no. 60cv-11-1785. Evins moved to dismiss with prejudice based on the two prior involuntary dismissals. On December 14, 2011, the court denied Evins' motion and granted judgment to Carvin for \$166,231 against Evins.

9. Evins appealed, and the Court of Appeals reversed the trial court and dismissed the circuit case.

10. On April 30, 2013, Carvin's new attorney, filed a legal negligence suit against Hurst as Pulaski Circuit No. 60cv-13-1852.

11. Hurst filed a pro se Answer generally denying the Complaint.

12. Hurst's responses to Plaintiff's First Requests for Admissions admitted all facts requested except No. 5, in which he denied his failing to file Carvin's pre-trial brief in 60cv-09-1251 was conduct that failed to use the skill and diligence ordinarily used by attorneys acting in the same or similar circumstances.

13. With a jury trial set for August 26, 2014, in the negligence case, the parties entered into a Consent Judgment for \$45,000 in Carvin's favor, in which she agreed to withhold execution as long as Hurst paid her \$800 per month starting September 5, 2014. Hurst signed the Consent Judgment.

14. Carvin received no payments on the consent judgment from Hurst after execution of the Consent Judgment.

15. On February 17, 2015, Carvin's attorney issued a writ of garnishment to the law firm of Hurst, Morrissey & Hurst, PLLC, the alleged employer of Josh Hurst. Justin Hurst answered for the law firm, claiming Josh Hurst was not employed there. A hearing was set for November 24, 2015, at which Josh Hurst did not appear. Q. Byrum Hurst, Jr., and Justin Hurst, attorneys and father and brother, respectively, of Josh Hurst appeared and argued for Josh Hurst, advising the court that Josh Hurst was not employed by Hurst, Morrissey & Hurst, PLLC.

16. After the hearing, Carvin and her attorney spoke with Byrum and Justin Hurst to discuss the next step they would take if Josh Hurst did not make the consent judgment payments as agreed.

17. No payments were thereafter made by or for the benefit of Josh Hurst to Carvin on the consent judgment until 2019.

18. On February 8, 2016, a writ of execution was issued for Hurst on the consent judgment. Hurst filed a response, requesting a hearing as to ownership of personal property and

what property could be executed upon. A hearing was set for April 27, 2016. On April 26, 2016, Hurst, through counsel, filed a motion to withdraw response to writ of execution and to cancel the hearing set for April 27, 2016.

19. On April 25, 2016, Hurst filed Chapter 13 bankruptcy, listing Darlene Carvin and her attorney as creditors. When Hurst failed to follow the bankruptcy's court's orders, the bankruptcy case was dismissed.

20. On August 23, 2016, Carvin's attorney was allowed to withdraw from representing her in the case against Hurst.

21. On March 14, 2017, Hurst filed a new Chapter 13 bankruptcy again Carvin and her former attorney as creditors along with the \$45,000 judgment.

22. Hurst is believed to have been employed, at all times, at the Hot Springs family law firm of Hurst, Morrissey & Hurst, PLLC and later named the Hurst Law Group.

23. Carvin recently advised the Office of Professional Conduct that Hurst's father made payments to Carvin on the judgment against Hurst totaling approximately \$24,508.00 between 2019 and 2022.

A. The conduct of Hurst, as set forth in the Formal Complaint, violated Rule 1.1, to wit:

1. After obtaining an extension on a pre-trial brief due date of May 1, 2010, and a continued trial date to October 6, 2010, Hurst still failed to file any pre-trial brief for Carvin until September 30, 2010, too late as it turned out, causing Carvin's complaint against Evins to be dismissed for a second time, a fatal dismissal with prejudice. Representation by Hurst that showed a lack the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. The conduct of Hurst, as set forth in the Formal Complaint, violated Rule 1.3, to wit:

1. After obtaining an extension of a pre-trial brief due date of May 1, 2010, and a continued trial date to October 6, 2010, Hurst still failed to file a timely pre-trial brief for Carvin. Hurst filed the untimely pre-trial brief on September 30, 2010, which caused Carvin's complaint against Evins to be dismissed for a second time, a fatal dismissal with prejudice. Hurst failed to act with reasonable diligence and promptness in representing his client Carvin.

Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Hurst, as set forth in the Formal Complaint, violated Rule 3.3(a)(1), to wit:

1. In a pleading filed March 26, 2015, by Justin Hurst, he alleged that Josh Hurst was not employed by the garnishee law firm, defeating efforts by Carvin to collect on her 2014 judgment against Josh Hurst. The statement about the employment status of Josh Hurst was false and Josh Hurst knew of the statement and that it was false. This false statement of fact was not corrected by Josh Hurst, and such failure to correct is conduct by Josh Hurst that violated the prohibition against a lawyer's lack of candor toward a tribunal.

Arkansas Rule 3.3(a)(1) provides that a lawyer shall not knowingly make false statement of fact or law to a tribunal; or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.

D. The conduct of Hurst, as set forth in the attached Exhibits, violated Rule 8.4(c), to wit:

1. As part of the consideration for Carvin not going to trial to collect on the \$45,000 consent judgment, Hurst committed to making the \$800 per month payments to Carvin. Hurst made no payments. Hurst bankruptcy case schedule filings showed Hurst was employed. This is conduct by Hurst involving dishonesty, fraud, deceit or misrepresentation.

2. In the Answer to Writ of Garnishment filed March 28, 2015, by Justin Hurst on behalf of the firm, the law firm denied Josh Hurst was employed there and Josh Hurst failed to correct the false statement to avoid the garnishment of his wages which is conduct involving dishonesty, fraud, deceit or misrepresentation.

Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

E. The conduct of Hurst, as set forth in the attached Exhibits, violated Rule 8.4(d), to wit:

1. Hurst's failure to timely file Carvin's pre-trial brief in 26cv-09-1251 caused her to then suffer a second dismissal of her claims against Evins and eventually lose on appeal the \$166,231 judgment she obtained against Evins in Carvin's third suit against Evins in Pulaski Circuit Court on December 13, 2011, conduct by Hurst that is prejudicial to the administration of justice.

2. In an Answer filed March 26, 2015, by Justin Hurst to a writ of Garnishment, the garnishee law firm denied Josh Hurst was employed by the firm, thus defeating the garnishment effort. Documents put out by the Hurst firm from 2005-2019 clearly showed

that firm held itself out to the public as including Josh Hurst as an attorney employed there.

Hurst ratified the false statement and his conduct that is prejudicial to the administration of justice.

Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Josh Quincy Hurst, Arkansas Bar Number 2004016, be, and hereby is Cautioned for his conduct in this matter. Furthermore, Hurst shall continue to make payments of \$800.00 per month to Carvin until the balance of \$45,000 is paid. Hurst shall provide the Office of Professional Conduct with copies of each payment made to Carvin. Hurst shall also pay costs in the amount of \$50 (FIFTY DOLLARS).

The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Consent Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The payments of \$800.00 per month to Carvin shall begin upon filing of this Consent Findings and Order with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT



Wendy R. Howerton, Chair, Panel B

4-18-25

Date