

# *2016 Annual Report*

*Arkansas Supreme Court*

*Committee on Professional Conduct  
&  
Office of Professional Conduct*

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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. 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 409-533 of the 2016 Court Rules, Volume 2, of the Arkansas Code. The attorney discipline Procedures implementing these Rules are in the same Volume 2, at pages 357-407. 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 2016, 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 2016 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  
Elmer Ritchie, Little Rock, Non-attorney at Large  
Carolyn Morris, Danville, Non-attorney at Large

**Panel C:** Keith L. Chrestman, Jonesboro, 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) Richard C. Downing, 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 **2016 Executive Committee** consisted of:

Jerry Pinson, Harrison, Panel A, Committee Chair  
Carolyn Morris, Danville, Panel B, Committee Secretary  
Michael Boyd, Magnolia, Panel A Chair  
Niki Cung, Fayetteville, Panel B Chair  
Mike Mayton, Little Rock, Panel C Chair

The **2017 Executive Committee** will consist of:

James S. Dunham, Russellville, Panel B, Committee Chair  
Elaine Dumas, Little Rock, Panel A, Committee Secretary  
Steven Shults, Little Rock, Committee Vice-Chair, Panel A Chair  
Michael E. Mullally, Jonesboro, Panel B Chair  
Joseph Hickey, El Dorado, 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 2016-2017 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, a paralegal, and two administrative assistants. 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 2016 were Michael E. Harmon - Deputy Director, Charlene Fleetwood - Senior Staff Attorney, and Caroline Bednar - Staff Attorney.

In calendar 2016, as in previous years, the staff presented several “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 2016 calendar year, the Office opened new files on 725 grievances on attorneys alleged lawyer misconduct, increased from 657 new files opened in 2015. See attached Appendix A.

In 2016, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2016 and carry-over cases from previous years, 663 files were closed, up from 595 files closed in 2015. For additional statistical information, see attached Appendix B.

### **IV. 2016 Formal Actions Initiated**

In 2016, there were 52 new formal Complaint attorney discipline cases opened for the Committee on Professional Conduct panel action, down from the 57 new formal Complaint cases opened in 2015. In 2016, 55 formal Complaint files were closed, compared to 45 closed in 2015.

### **V. 2016 Final Committee Actions**

Final action was taken in 50 formal Complaint files involving Arkansas attorneys during the 2016 calendar year 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. In 2016, twenty-one (21) attorneys received at least one public sanction, down from twenty-five (25) in 2015.

### **VI. 2016 - Most Common Rule Violations**

In the 2016 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), 1.3 (acting with reasonable diligence and promptness in representing a client), and 1.1 (competence). A list containing the Arkansas Rule alleged and the number of times the Committee found the rule to have been violated in 2016 is attached as Appendix "C".

## VII. “Practice Aging” of Attorneys Disciplined (2016)

Of the 2016 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, 21 attorneys were publicly sanctioned as follows. (Attorney age information is not available):

Years Licensed	No. of Attorneys Publicly Sanctioned	Percentage
01-10 (2007-2016)	3	14.29%
11-20 (1997-2006)	4	19.05%
21-30 (1987-1996)	4	19.05%
31-40 (1977-1986)	4	19.05%
41+ (before 1977)	6	28.57%
Total	21	

(Several attorneys were publicly sanctioned more than once in 2016.)

## VIII. 2016 Fines, Restitution & Costs

Type	Amount Imposed (2016)	Amount Collected (2016)
FINES:	\$13,000.00	\$6,550.00
RESTITUTION:	\$750.00	\$750.00
COSTS:	\$5,502.75	\$1,125.00
TOTALS:	\$19,252.75	\$8,425.00

(Note: some of the collections in 2015 were assessed in cases finalized in earlier years. Costs in disbarment cases are rarely collected.)

## IX. 2016 Trust Account “Overdraft” Reporting

There were 39 notices received in 2016 from all banks and reporters (compared to 38 in 2015). Most of these files were closed after a summary investigation and explanation by the attorney involved. None of the 2016 files has resulted in filing a formal Complaint to date.

There are two 2016 files still “open” to some extent, such as awaiting additional documentation from the attorney. Of the few 2015 files still open, none are believed to involve a loss of client funds.

The overwhelming majority of overdraft reports were due to some form 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 2016 Public Sanctions – Appendix “D”**

	Number	Designation	Description	Annual Total
2		<b>Attorney</b>		
3	001	A-A/C	Attorney Conduct	77
4	002	A-A/S	Advertisement / Solicitation	4
5		<b>Criminal</b>		
6	003	CR-D	Criminal Defense	163
7	004	CR-P	Criminal Prosecution	77
8	005	CR-A	Criminal Appeal	9
9		<b>Domestic Relations</b>		
10	006	DR-D	Divorce	53
11	007	DR-C	Custody	46
12	008	DR-C/S	Child Support	4
13	009	DR-QDRO	Qualified Domestic Relations Order	5
14	010	DR-V	Visitation	0
15	011	DR-DA/OP	Domestic Abuse / Order of Protection	6
16	012	DR-P	Paternity	0
17		<b>Juvenile</b>		
18	013	J-DHS	Department of Human Services	20
19	014	J-FINS	Families in Need of Services	0
20		<b>Probate</b>		
21	015	PR-E	Estate	47
22	016	PR-T	Trust	1
23	017	PR-W	Will	2
24	018	PR-POA	Power of Attorney	3
25	019	PR-G	Guardianship	18
26	020	PR-A	Adoption	4
27	021	PR-CC	Civil Commitment	0
28		<b>Bankruptcy</b>		
29	022	BNK-7	Chapter 7	7
30	023	BNK-11	Chapter 11	0
31	024	BNK-13	Chapter 13	5
32		<b>Civil</b>		
33	025	CV-A	Appeal	5
34	026	CV-C	Contract	19
35	027	CV-DC	Debt Collection	10
36	028	CV-F	Foreclosure	2
37	029	CV-J	Judgment	1
38	030	CV-LL/TN	Landlord / Tenant	3
39	031	CV-MM	Medical Malpractice	5
40	032	CV-MVA	Motor Vehicle Accident	26
41	033	CV-FED	Civil - Federal	10
42	034	CV-PI	Personal Injury	16
43	035	CV-PR	Property	28
44	036	CV-T	Tort	9

	Number	Designation	Description	Annual Total
45	037	CV-UD	<a href="#">Unlawful Detainer</a>	0
46	038	CV-N	Negligence	1
47		<b>Miscellaneous</b>		
48	039	SSD-SSI	Social Security Disability / Income	5
49	040	WC	<a href="#">Workers Compensation</a>	5
50	041	ACC	Arkansas Claims Commission	2
51	042	IMGN	<a href="#">Immigration</a>	9
52	043	SCPC	Supreme Court Per Curiam	2
53	044	ARGV	<a href="#">Arkansas State Government</a>	5
54	045	IRS	Federal or State Taxes	2
55	046	EMP	<a href="#">Employment</a>	5
56	047	DC-SC	District Court - Small Claims	1
57	048	INT-PR	<a href="#">Intellectual Property</a>	1
58	049	BS-CP	Business / Corporation	1
59	050	USVA	<a href="#">Veterans Administration</a>	1
			TOTAL GRIEVANCES:	725
No.	Disposition	Description		
12	Formal	Formal Complaint		
398	NSF*	No Sufficient Finding		
15	W/D*	Withdrawn by Complainant		
1	Merged-S	Merged with Surrender		
2	Merged-D	Merged with Disbarment		
0	Disbarred	Closed - Disbarred		
5	Closed-D	Closed - Deceased		
0	Closed-S	Closed - Surrendered		
3	FTR	Complainant Failed to Respond		
1	UPL	Unauthorized Practice of Law		
288	Open	Investigation Pending		
725	Total			

Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Files opened	873	1,028	972	892	826	804	819	859	861	888	735	794	716	744	657	725
Closed by staff	691	737	825	796	868	1137	784	786	742	845	806	646	478	732	595	663
Complaints filed	149	186	200	164	159	156	140	114	144	119	97	85	67	51	57	52
Appellate Referrals	34	45	50	40	34	39	50	33	41	18	17	40	7	14	7	14
Judicial Referrals	13	12	12	8	8	19	6	4	4	6	10	18	3	8	11	7
Attorney Referrals				24	7	16	9	15	15	7	14	38	37	28	33	14
Complaints closed	135	178	185	211	181	173	182	122	128	119	106	74	78	63	45	53
No Actions	12	30	15	24	18	19	13	10	11	10	7	4	4	5	2	3
Warnings	45	53	54	38	33	53	41	37	46	26	20	13	8	10	17	14
Cautions	14	31	28	53	41	29	34	20	28	15	24	8	10	17	10	7
Reprimands	26	35	37	36	31	30	26	14	14	19	20	11	11	5	7	7
Suspensions	19	14	20	9	17	12	23	12	10	10	11	9	12	4	3	5
Surrenders	13	5	5	11	6	7	1	6	5	3	14	8	3	2	6	6
Merge / surrender		1	14	29	5	4	0	6	18	6	9	1	1	2	3	2
Disbarment initiated	6	3	3	3	7	2	1	1	2	1	2	1	4	2	0	1
Disbarments		0	0	3	0	2	2	2	4	3	0	0	5	2	0	0
Reinstated	3	3	8	10	13	11	6	0	6	2	2	5	9	7	11	2
Consents	13	35	54	71	51	64		45	50	28	29	18	7	8	13	13
Refer to ArJLAP	N/A	2	0	0	1	3	0	0	0	0	0	0	0	0	0	0
No. of Attys Publicly Sanctioned*	57	61	72	101	102	68	67	49	44	44	60	29	30	27	25	21

## 2016 RULE VIOLATIONS

## APPENDIX "C"

	Alleged	No.			Found	No.	
	1.1	21			1.1	15	
	1.2(a)	2			1.2(d)	1	
	1.2(b)	1			1.3	24	
	1.2(d)	1			1.4(a)	1	
	1.3	26			1.4(a)(3)	4	
	1.4(a)	4			1.4(a)(4)	5	
	1.4(a)(1)	1			1.4(b)	2	
	1.4(a)(3)	7			1.5(a)	3	
	1.4(a)(4)	6			1.5(b)	1	
	1.4(b)	2			1.7(a)	2	
	1.5(a)	4			1.7(b)	1	
	1.5(b)	1			1.8(b)	1	
	1.5(c)	1			1.8(c)	1	
	1.6(a)	1			1.15(a)(1)	3	
	1.7(a)	2			1.15(a)(4)	1	
	1.8(a)	1			1.15(a)(5)	1	
	1.8(b)	1			1.15(b)(1)	1	
	1.8(i)	1			1.15(b)(3)	1	
	1.9(a)	2			1.16(a)(2)	2	
	1.9(b)	1			1.16(d)	8	
	1.9(c)	1			3.1	3	
	1.14(a)	1			3.2	3	
	1.14(b)	1			3.3(a)	2	
	1.15(a)(1)	1			3.3(a)(1)	5	
	1.15(a)(5)	1			3.3(a)(3)	1	
	1.15(a)(6)	1			3.4(a)	1	
	1.15(b)(3)	1			3.4(c)	8	
	1.16(a)(2)	2			3.4(e)	1	
	1.16(d)	13			4.1	1	
	3.1	4			4.2	1	
	3.2	1			4.4(a)	2	
	3.3(a)	5			8.1(a)	1	
	3.3(a)(1)	1			8.1(b)	1	
	3.4(c)	8			8.2(a)	1	
	4.1(a)	3			8.4(a)	4	
	4.1(b)	1			8.4(b)	6	
	4.3	1			8.4(c)	12	
	4.4(a)	4			8.4(d)	23	
	5.5(a)	2		Total	38	154	
	7.1	1					
	7.3(a)	1					
	8.1(b)	1					
	8.4(a)	1					
	8.4(b)	1					
	8.4(c)	17					
	8.4(d)	34					
	8.4(e)	1					
Total	47	195					

## Appendix “D” - 2016 Cases

### SURRENDER:

**BARROW, ROBERT L., Bar No. 78010**, of Little Rock, had his petition to surrender license accepted by the Court on September 22, 2016, in Case No. D-16-774. In his petition to surrender his law license voluntarily, Dr. Barrow acknowledged that in the United States District Court, Eastern District, he entered a guilty plea to one felony count of conspiracy to commit health care fraud, a Class C felony, and was sentenced on July 26, 2016, to two years’ imprisonment. Dr. Barrow stated that he wished to avoid the expense, stress, and publicity of addressing his misconduct through disbarment proceedings.

**CLOUETTE, JAMES PAUL, Bar No. 74025**, of Little Rock, had his petition to surrender license accepted by the Court on June 23, 2016, in Case No. D-16-530. As a felon, Clouette surrendered in lieu of disciplinary proceedings for serious misconduct after entering a plea to a felony possession of controlled substance charge in Pulaski County Circuit Court No. 60cr-15-1816 arising out of an incident on April 1, 2015. This was Clouette’s second such charge, the previous one resulting in a reprimand issued by a committee panel and affirmed by the Court on a second appeal in Case No. 11-770 on January 26, 2012, at 2012 Ark. 21.

**GILLEAN, JACK W., Bar No. 83073**, of Hot Springs, Arkansas, on February 11, 2016, petitioned the Supreme Court to surrender his Arkansas law license, his petition filed and available in Case No. D-16-131, on the basis of his felony convictions in Faulkner County Circuit Court in 2014 for offenses of commercial burglary which were affirmed on appeal. By per curiam issued March 3, 2016, at 2016 Ark. 91, the Supreme Court accepted his surrender and ordered him barred from the practice of law in the State of Arkansas.

**LYNCH, JOE T., Bar No. 88132**, of Hot Springs, Arkansas, on January 15, 2016, petitioned the Supreme Court to surrender his Arkansas law license, his petition filed and available in Case No. D-16-43, on the basis of his acknowledgment of his conduct in two Committee cases which led to a panel decision and order to direct that disbarment proceedings be initiated against Lynch. The Petition contains the two panel Findings & Orders which set out the basis for the referral to disbarment proceedings. By per curiam issued February 11, 2016, at 2016 Ark. 56, the Supreme Court accepted his surrender and ordered him barred from the practice of law in the State of Arkansas.

**PILKINTON, JR., JAMES H., Bar No. 73094**, of Hope, had his petition to surrender license accepted by the Court on September 15, 2016, in Case No. D-16-780. In his petition to voluntarily surrender his law license, Mr. Pilkinton acknowledged an investigation by the Committee on Professional Conduct regarding irregularities in his IOLTA account related to real estate transactions and stated that he wished to avoid the expense, distress, and embarrassment of disbarment proceedings.

**REDD, MICHAEL K., Bar No. 78141**, of Fort Smith, had his petition to surrender license accepted by the Court on May 5, 2016, in Case No. D-16-354. In his petition to surrender license,

Redd, also licensed in Oklahoma and also a CPA in both states, acknowledged he had wrongfully converted over \$100,000 from the law firm where he was the managing partner.

#### **INITIATE DISBARMENT WITH INTERIM SUSPENSION:**

**BLOODMAN, TERESA L., Bar No. 2005055**, with a post office address in Maumelle, Arkansas, was placed on interim law license suspension and a panel directed that disbarment proceedings be initiated against her for her conduct in nine (9) Committee cases by an Order of Interim Suspension and a Findings & Order filed March 21, 2016. The Petition for Disbarment was filed April 1, 2016, in the Supreme Court and available in Case No. D-16-301.

#### **SUSPENSION:**

**KHOURY, NAIF SAMUEL, Bar No. 75070**, of Van Buren, Arkansas, on a referral from the Circuit Judge Stephen Tabor of Sebastian County, by Committee Findings & Order in Case No. CPC 2014-021, filed February 9, 2016, after a hearing, sanctioned Khoury with a six month license suspension, \$500 fine, and \$400 costs, for violations of AR Rules 3.3(a)(1), 8.4(a), 8.4(c), and 8.4(d). Khoury represented Dennis Osborne and a mandatory appearance was scheduled for December 11, 2013. Osborne appeared, but Khoury did not. The court set the matter aside and requested court personnel to locate Khoury. Court personnel contacted Joshua-Paul Anderson to locate Khoury. Anderson personally found Khoury in town but was told by Khoury to inform the court that Anderson did not find Khoury. Anderson did what Khoury asked. Khoury later appeared in court and was questioned about his location when he was scheduled to be in court. Khoury denied notice of the hearing and attempted to leave the courtroom. At a hearing, the court was informed that Anderson did find Khoury but that Khoury asked Anderson to inform the court that Khoury could not be located. The court issued a show cause order and scheduled a hearing where testimony was taken by witnesses present during the proceeding. After a hearing, Khoury was found to be in contempt of court and fined \$500 to be paid by no later than January 27, 2014. Khoury did not do so, and a hearing was held on the failure to comply with the court's order. Khoury paid the fine on February 6, 2015.

**RHODES, BYRON C., Bar No. 79186**, of Hot Springs, in Committee Case No. CPC 2014-031, after a hearing, by Findings & Order filed October 3, 2016, for violations of Rules 1.5(a) and 8.4(c) had his Arkansas law license suspended for eighteen (18) months starting January 1, 2017, and was assessed \$2,002.75 in hearing costs for his conduct in 2013 in a guardianship matter involving Richard Cole and Rhodes' client Cynthia Stovall, one of Cole's children, in Montgomery County Circuit Court. In February 2013, Stovall employed Rhodes at a \$175 hourly rate. Rhodes did not enter his appearance in the guardianship case or file any pleadings. Rhodes attended one hearing, on May 10, 2013, where the guardianship of Cole's estate was continued. From April 5, 2013, on Cole had a court-appointed attorney ad litem, Robin Smith. Rhodes would meet with Stovall, with Cole present. During May 2013, Smith communicated to Rhodes that he should not have contact with her ward Cole. On May 20, 2013, Stovall took Cole to Rhodes office, where Rhodes reviewed and had Cole execute estate planning documents, including a will and durable power of attorney. On May 28, 2013, Rhodes presented Stovall with a bill for \$22,228.54 for 112.45 hours of time, that included 73 hours of "research" time, including time Rhodes claimed he spent thinking the Cole matter. Rhodes told Stovall and Cole that there remained work to be

done in the Cole matter and that \$25,000 should cover all work billed and to be done. Cole signed a \$25,000 personal check and it was handed to Rhodes. Smith, Cole's guardian, was unaware of this activity. Cole's bank stopped payment on the check. After learning of the \$25,000 check, Smith filed a complaint on Rhodes at the Office of Professional Conduct in early June 2013. Stovall dismissed Rhodes as her attorney.

Smith filed a motion for contempt against Rhodes. By September 2013, Stovall had obtained a required bond by herself and been appointed her father's guardian. At a hearing in February 2014, it was discovered that Rhodes had recently sent Stovall and Cole a reduced bill of \$11,296.04, with a demand for payment or the account would be turned over to collection. Rhodes testified the reduced bill basically represented his original billing less the "research" time in it. Neither Cole or Stovall paid the bill. At age 82 and in poor health since 2012, Cole died in a nursing home in March 2015, two months after being deposed for the hearing. The hearing panel found Rhodes' total billings to Stovall in the Cole matter of \$23,415 were excessive and unreasonable and that he falsely billed Stovall for services in what was a simple guardianship matter where his client was attempting to be qualified as her father's guardian. The panel acquitted Rhodes of three other rule violations charged. In exchange for extra time to wind down his law practice and a suspension start date of January 1, 2017, Rhodes agreed to not appeal the hearing decision.

#### **INTERIM SUSPENSION:**

**PILKINTON, JR., JAMES H., Bar No. 73094**, of Hope, Arkansas. A Petition for Interim Suspension with information demonstrating that Pilkinton posed a substantial threat of serious harm to the public or the lawyer's clients was filed by the Executive Director with the Committee and was granted. The Order of Interim Suspension was filed with the Supreme Court on March 28, 2016.

#### **SUSPENSION (STAYED):**

**REECE, DANA A., Bar No. 87142**, of Little Rock, Arkansas, in three separate cases that were combined into one order, involving clients Osborn (to obtain a pardon), James (a divorce) and Fair (a divorce), on April 11, 2016, agreed to a three month license suspension which was stayed during a supervised probation period of twenty-four (24) months, plus \$1,300 in case costs, for violations of Rules 1.3, 1.4(a)(3) in Osborn, and 1.16(d), in James 1.3, 1.4(a)(3) and 1.4(a)(4), and in Fair 1.15(d) and 3.4(c). Osborn paid Reece \$5,000 in fees and later terminated Reece basically for non-communication. He requested a full fee refund, which was only made after filing of the OPC Complaint and the panel ballot vote decision. After receiving his \$1,600 fee, Reece failed to perform legal services for James. He sued her in district court and obtained a \$1,600 judgment on which she failed to pay the last \$1,100. Reece paid James the \$1,100 after she was served with the OPC Complaint. Fair paid Reece \$3,050. When the two met to discuss the upcoming hearing Reece was unprepared. Fair terminated Reece's services. Reece failed to make a fee refund or deliver her file to Fair. Through counsel, at the start of her hearing Reece made a plea offer (not a consent proposal) by which she would admit certain rule violations and accept a specific sanction, which offer the hearing panel then accepted. A supervising attorney for her probation has been approved by OPC.

## **REPRIMAND:**

**COE, JR., EDWARD N., Bar No. 98049**, of Greenwood, in Committee Case No. CPC 2004-150, by a Consent Findings & Order filed June 17, 2016, for violations of Model Rules 1.4(a), 1.16(d), 3.4(c) and 8.4(d) was sanctioned with a reprimand, \$100 costs, and ordered to pay \$750 restitution to Linda Taylor, an expert witness he engaged in a case. The Kirkpatrick hired Coe, then of Russellville, in early 2003 to represent them in criminal charges filed in Randolph County Circuit Court and paid him a total of \$6,000.00, being a flat fee of \$5,000.00 and \$1,000.00 for a handwriting expert, if needed. Coe entered his appearance for both on February 28, 2003. After a suppression hearing and an adverse ruling issued June 30, 2003, the Kirkpatricks claimed they had difficulty contacting Coe. From court documents, it appears Coe's last court appearance for them was around November 4, 2003. Their jury trials were reset for March 1, 2004, and Coe allegedly failed to notify them of this court date and Coe failed to appear for court that date. The Kirkpatricks also failed to appear for trial March 1, 2004, and both were later arrested for failure to appear. The court appointed new counsel for each Kirkpatrick. Coe claimed the Kirkpatricks were absconders during this period. Coe retained Conway handwriting expert Linda Taylor for the Kirkpatrick case. She provided services and rendered a report. Her invoice for \$600 was not paid. She sued Coe in district court in Conway and obtained a judgment for \$698.00, which was never paid. As part of a consent, Coe agreed to pay Taylor \$750.00 as restitution for her services and judgment and accept a reprimand. Coe was out of state from about 2005-2015.

**CRUZ, KATHY A., Bar No. 87079**, of Hot Springs, Arkansas, on a referral from Richard D. Taylor, United States Bankruptcy Judge, in Committee Case No. CPC 2015-091, by Findings & Order filed January 25, 2016, was reprimanded for her violations of AR Rules 1.1, 3.1, 3.3(a)(1), 3.3(a)(3) and 8.4(c). Jonathan Young was a party to a divorce action and was ordered to pay child support, restitution, alimony, and attorney's fees and cost. Young filed for bankruptcy. His ex-wife, Stephens, filed for relief from the automatic stay to pursue her remedies in state court. Cruz then entered her appearance for Young. Cruz and Stephens' attorney entered an order allowing Stephens to seek state court remedies to continue throughout the bankruptcy case. After an appeal to the Arkansas Court of Appeals which affirmed the trial court's award, Young converted his case to a Chapter 13 matter. A Chapter 13 plan was submitted which did not reference the child support, restitution, alimony, and attorney's fees awarded by state court. Young was in arrears in the amount of \$9300, all but \$500 of which was accrued post-petition. Stephens requested assurance that the child support, restitution, alimony, and attorney's fees would be paid or she would file a contempt motion in state court. Cruz filed a modification of the plan which characterized the arrearage as "past due alimony" to be paid during the life of the plan and that Young would continue to make alimony payments directly to Stephens as an unsecured claim. Young had not made any payments at that point in time. Stephens filed another objection as the bankruptcy plan did not address the issues of the past due alimony. Stephens requested a show cause order in state court and a hearing was held where Young appeared *pro se*. The state court found Young to be in willful contempt of court but reserved the issue of restitution subject to the pending bankruptcy plan. Young was directed to secure a stay in bankruptcy court by a date certain, post a bond for the past due alimony, or surrender to the Garland County Sheriff's Office. Young did neither and a subsequent hearing was held.

At that hearing, Young testified that he was making all payments to the trustee, that Stephens could file a claim with the trustee, and that he had confirmed with Cruz that the stay from bankruptcy court was still in effect. Young was again found in contempt and jailed. Cruz represented Young on appeal to the Arkansas Court of Appeals. Following a decision of the Court of Appeals, Cruz filed an adversary proceeding in bankruptcy court alleging willful violation of the stay by Stephens in seeking to collect, in part, the post-petition alimony which resulted in Young's incarceration. Cruz asserted that Stephens had not received payment on the arrearages as she had not filed a proof of claim with the trustee and that Young was current in all of his domestic obligations after the filing of the bankruptcy plan. Judge Taylor issued Cruz an Order to Appear and Show Cause. Following a hearing where Cruz testified and her counsel was present, Judge Taylor found Cruz to have violated Bankruptcy Rule 9011 and that she should be suspended for a period of six months from practicing law before the United States Bankruptcy Courts of Arkansas and fined \$1,000. Cruz appealed the decision to the United States Bankruptcy Appellate Panel for the Eighth Circuit which affirmed the violation of Bankruptcy Rule 9011. Cruz appealed that decision to the United States Court of Appeals for the Eighth Circuit which affirmed the decision of the Bankruptcy Appellate Panel.

**HICKS, RICKEY H., Bar No. 89235**, of Little Rock, in Committee Case No. CPC 2015-096, at a hearing before Panel C, by Findings & Order filed November 16, 2016, was reprimanded and fined \$7,500 for violations of Rules 1.1, 1.3, and 3.4(c) and assessed \$550 costs. In assessing these sanctions, the panel found Hicks' prior disciplinary record was a factor. The complaint was based Case No. CR-14-529, Evans v. State, a criminal appeal. In November 2012, Evans, represented by private counsel Hicks, was convicted of capital murder and sentenced to life in prison without parole. Hicks accepted the representation of what was initially a death penalty case for a \$30,000 fee, of which he testified only \$10,000 was ever paid to him for the trial and appeal work. On November 14, 2012, Hicks filed Evans' Notice of Appeal, indicating his client was then indigent. Hicks needed to file a motion for Evans to proceed in forma pauperis (IFP) in the appeal. Hicks wrote Evans in the Union County jail and requested Evans sign the Affidavit and Petition to proceed IFP. In February 2013, Hicks twice mailed Evans an affidavit of indigency to sign and return. In May 2013, Hicks again wrote Evans in jail about the unsigned and unreturned IFP affidavit. In July 2013, the Evans IFP Affidavit was filed. In September 2013, the Order granting the Evans IFP petition was approved and filed. On November 21, 2013, the court reporter wrote Hicks about the status of the Evans trial transcript for the appeal and informed him he needed to file for a belated appeal, as Hicks had failed to notify the reporter of the filing of the IFP order.

In January 2014, Hicks filed a motion for belated appeal and extension of time to file the Evans appeal record with the Union County circuit clerk, and not with the Supreme Court Clerk. The order granting Evans' IFP petition was filed. On May 22, 2014, Hicks tendered the record to the Supreme Court Clerk, who noted the tender was late and a motion for rule on clerk would be required. The rule for lodging the record on appeal requires tender of the record to the appellate clerk within ninety (90) days after the notice of appeal is filed. Here Hicks did not tender the record until over eighteen (18) months after the judgment was entered. In June 2014, Hicks filed a motion for rule on the clerk. By Order issued July 31, 2014, the Court granted the motion for rule on clerk and a briefing schedule was set, with Hicks' brief due September 9, 2014. Hicks obtained several briefing extensions, failed to file the Evans brief on time, and OPC contacted him. The docket indicates Hicks checked out the record from the Supreme Court Clerk on November 17, 2014. On

December 22, 2014, Hicks filed a motion to file a belated brief after supplementation of the record, which was granted on January 15, 2015, by letter order. The Supreme Court Clerk issued a writ of certiorari to the circuit clerk to file the complete trial record by February 14, 2015, and two weeks later Hicks filed appellant's brief. On May 28, 2015, the Supreme Court affirmed the Evans conviction. An on-line docket search on August 12, 2015, showed Hicks had been appellant's counsel in over ten (10) cases, indicating he had experience in criminal cases and appeals.

At the hearing, Hicks characterized the Evans case as a "train wreck," stating that Evans had caused the delays in his appeal by repeatedly failing to execute the required affidavit of indigency to go with the IFP petition Hicks had to file to get the State to pay for the appeal record. The attorney who did all Hicks' appeals was having serious health issues during this period, causing further delays in the Evans appeal. Hicks had handled twelve capital murder cases in his career, and has many criminal cases in Columbia, Ouachita, and Union (where he was raised) Counties. Prosecuting Attorney David Butler testified he had dealt with Hicks for many years in a number of criminal cases in South Arkansas and found him to be a good, cooperative defense lawyer. Attorney Tim Dudley testified he has known Hicks for at least thirty years, they had tried a capital murder case together, and Hicks was a fine lawyer with a busy case load. The hearing panel dismissed five other rule violations charged.

**LIPSCOMB, BENJAMIN C., Bar No. 88131**, of Rogers, in Committee Case No. CPC 2015-105, by Consent Findings & Order filed May 20, 2016, for violations of Rules 1.7(a), 8.4(a), 8.4(b), and 8.4(c), agreed to accept a reprimand and pay a \$4,000 fine. Lipscomb served as the elected City Attorney for the City of Rogers, AR, from October 1997, until he resigned on January 30, 2015. Lipscomb resided in and voted in Rogers until early 2011 when he relocated to a residence outside the Rogers city limits, leasing out his Rogers dwelling to tenants. Thereafter Lipscomb illegally voted in more than one election at his former voting precinct inside the city of Rogers and continued to serve as elected city attorney, and was even re-elected in 2014 although a city ordinance in effect since at least 2010 required the city attorney to be a resident of the city. On July 19, 2011, RA executed a Homestead Tax Credit document, under criminal penalty for a false statement, claiming his principal place of residence was 6 Dearhurst Road, Rogers, AR, which location is outside the city limits of the City of Rogers, Arkansas. Even though ineligible to hold his office, RA continued to draw and accept his salary and benefits, approximately \$150,000 per year, as Rogers City Attorney after May 2011, until the end of his elected term in December 2014, a period of over 3.5 years.

As a result of issues that arose between Lipscomb and other Rogers officials, a decision was made to redefine the duties and responsibilities of the Rogers City Attorney's Office. City ordinances which were supported at the time by both the mayor and Lipscomb and were enacted by the city council on September 24, 2014. These ordinances did not reduce the salary and benefits of the elected city attorney. On November 5, 2014, Lipscomb filed suit against the Mayor and Council members of the City of Rogers, as No. 14-cv-5338, in the United States District Court for the Western District of Arkansas. Lipscomb alleged the new ordinances were a "Bill of Attainder" in violation of the United States Constitution, and an effort to unlawfully strip him of his full authority as elected city office. The City defendants answered, in part, that Lipscomb was not a resident of the city and not legally qualified to hold the office of city attorney.

During late 2014, Lipscomb had a Rogers city employee who worked full-time in his City Attorney office devote office time and resources to preparing documents in his private matters, including pleadings in his federal case against the City. On his own time after hours and from his city office, Lipscomb composed an FOIA request to the City seeking information and copies of communications directly related to his lawsuit against the City. In December 2014, Lipscomb issued a memo related to Rogers District Court announcing henceforth that criminal case plea bargaining basically would cease in that court. For years Lipscomb had been appointed a deputy prosecuting attorney for Benton County to prosecute state misdemeanors in Rogers. The Benton County Prosecutor-Elect released an announcement that when he took office in January 2015, he would not commission Lipscomb as a deputy prosecuting attorney because of his stated new policy of no plea bargaining.

At a hearing in January 2015, Mayor Hines testified that prior to the enactment of the new ordinances the level of dysfunction in the office of City Attorney “was getting out of control” and the new ordinance was a way of mitigating that dysfunction. On January 23, 2015, the District Court filed an Opinion denying Lipscomb’s Motion for Preliminary Injunction, finding that every witness at the hearing, including Lipscomb, testified that he advocated the enactment of the ordinances to city council members. A settlement conference which resulted in an agreement which was approved by the Rogers City Council. An order dismissing the case with prejudice was entered January 29, 2015, and the City issued a check, net of taxes and benefits, for \$253,222.49 in full settlement with Lipscomb, which included his salary and benefits as City Attorney through the end of 2016, a “buy-out.” Lipscomb then resigned from the office of City Attorney. Lipscomb’s conduct during the past several years lead to negative publicity for the legal profession and his client the City of Rogers.

**TOLLESON, CHRISTOPHER A., Bar No. 2011032**, of Conway, in Committee Case No. CPC 2016-069, by Consent Findings & Order filed November 18, 2016, was reprimanded for violations of Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(a)(2), and 1.16(d). The complaint was based on information provided to the Committee by Ms. Dondia Miller in Tolleson’s representation in a divorce. In May 2013, Miller and Tolleson agreed on a fee estimated at about \$2,500.00, in addition to her paying any other costs. There was no written agreement. Miller paid \$1,250.00. Miller dropped off a gun for safekeeping with attorney Kienlen, with whom Tolleson shared office space. Upon Tolleson’s advice, Miller took her children and moved to Nevada awaiting the divorce. After speaking with Tolleson on June 5, 2013, Miller’s attempts to contact Tolleson were unsuccessful. Miller contacted the Faulkner County Circuit Clerk’s office and was told advised that no divorce had been filed.

After calling Tolleson and leaving a voice mail message for him, on June 10, 2013, Kienlen called Miller and informed her that Tolleson had a family emergency and was not available. Miller continued to call Tolleson and again spoke with Kienlen a week later and was informed Tolleson would not be in the office due to a family illness. The divorce action remained unfiled. On June 21, 2013, Miller emailed Tolleson a request that he return the \$1,250, and Miller’s sister picked up the gun left with Kienlen. Miller terminated Tolleson by fax to his office, voice mail, and certified mail which was signed for. Miller hired another attorney who filed the divorce on June 18, 2013, and completed her divorce on November 21, 2013. After Tolleson was served with the Committee Complaint, he refunded the \$1,250 to Miller.

**TOLLESON, CHRISTOPHER A., Bar No. 2011032**, of Conway, in Committee Case No. CPC 2016-099, by Consent Findings & Order filed November 18, 2016, was reprimanded for violations of Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(a)(2), and 1.16(d). The complaint was based on information provided to the Committee by Patricia Mize (now Kammers) on Tolleson's representation in her divorce. In July 2012, Mize hired Tolleson and paid him \$600 for the representation. Between July and December 7, 2012, Mize made repeated calls to Tolleson, leaving messages. She did speak with Tolleson occasionally. He repeatedly told her that he would file the pleadings for her divorce, but never filed. On December 7, 2012, Mize went to Tolleson's office in Conway, Arkansas to speak with him, but he was not there. Mize spoke to another attorney, Kienlen, who shared office space with Tolleson. Kienlen informed Mize that Tolleson had been out with some health issues. Kienlen then advised Mize that she would be taking over the Mize divorce case, and Mize paid Kienlen the \$165.00 filing fee. After failure on both attorneys' part to file her divorce action, Mize hired another attorney, paying her \$900, the divorce was filed, and became final on March 19, 2013. Tolleson states that Kienlen agreed to take over the Mize matter, which Kienlen denied. After being served with the Mize Complaint, Tolleson refunded her \$600.

**TOLLESON, CHRISTOPHER A., Bar No. 2011032**, of Conway, in Committee Case No. CPC 2016-103, by Consent Findings & Order filed November 18, 2016, was reprimanded for violations of Rules 1.3, 1.4(a)(4), and 1.16(d). The complaint was based on information provided to the Committee by Ms. Mercedes Birkner in Tolleson's representation in her uncontested divorce. In February 2013, Birkner hired Tolleson and paid him \$681.00. Within two weeks, Tolleson sent Birkner two emails containing documents that needed to be signed for the divorce. Birkner executed the documents and returned them to Tolleson. Thereafter, Birkner called and emailed Tolleson several times, with no response. When Tolleson failed to file her divorce action, Birkner hired another attorney and paid him \$750.00. The new attorney filed her divorce in October 2014, and it was final in August 2015. After being served with the Birkner Complaint, Tolleson refunded her \$600.

**CAUTION:**

**EVANS, JR., JAMES E., Bar No. 74050**, of Springdale, in Committee Case No. CPC 2016-051, by Consent Findings and Order filed July 15, 2016, for violations of Rules 1.1, 1.3, and 8.4(d), was cautioned and assessed \$50 costs for his conduct in the representation of Lloyd and Betty Thurman in a civil case in Washington County Circuit Court in which Evans filed responses to request for admissions one day late, resulting in the requests being deemed admitted and summary judgment being granted to a foreclosing bank.

**GRIGGS, RONALD L., Bar No. 72046**, of El Dorado, Arkansas, in Committee Case No. CPC 2016-007, by Consent Findings & Order filed March 18, 2016, was cautioned for violations of Rules 1.1 and 8.4(d) and assessed \$50 costs. Griggs represented a client on a child custody/support matter in Union County DR-2013-641. The court issued an order in favor of the opposing party, and Griggs filed a Motion for New Trial. The court never ruled on Griggs' motion, which on the thirtieth day was deemed denied. Griggs filed a Notice of Appeal. Griggs filed a Motion to Extend Time to File the Record, and the court granted the motion and extended time. Griggs should have filed the record with the appellate clerk on or by November 12, 2015. Griggs

tendered the record to the Clerk on November 30, 2015, but the record was not accepted as being untimely. Griggs filed a Motion for Rule on Clerk, stating “it appears that the mistake in calculation of the latest possible due date for the record to be lodged arose because counsel for Appellant used the date of the Notice of Appeal and counted seven (7) months forward.” The Arkansas Supreme Court denied Griggs’ Motion for Rule on Clerk and his client’s right to an appeal was lost.

**KIENLEN, TERRI WESTBROOK, Bar No. 2001181**, of Conway, in Committee Case No. CPC 2016-100, by Consent Findings and Order filed September 16, 2016, for violations of Rules 1.3, 1.4(a)(4), and 1.16(d), was cautioned for her conduct in the representation of Patricia Mize (now Kammers) in a domestic relations matter. Kammers initially hired attorney Tolleson, but had difficulty getting in contact with him and he had not filed her divorce action. Kammers went to Tolleson’s office, he was not there, however she was met by Kienlen. Kienlen informed Kammers that Tolleson was having health issues and that Kienlen would be taking over Kammers’ divorce. Kienlen requested that Kammers pay her \$1,200 for the divorce action. Kammers informed Kienlen that she had already paid Tolleson \$600 for an uncontested divorce, showing Kienlen the receipt. Kienlen advised Kammers that if she would give Kienlen the \$165 filing fee, Kienlen would file the divorce action for her. Kammers paid Kienlen the \$165 filing fee and Kienlen gave Kammers a receipt. Kammers attempts to contact Kienlen after that were unsuccessful. The divorce action was not filed by Kienlen. Kammers then hired another attorney for a fee of \$900. The divorce was filed by her new attorney on January 10, 2013, and completed by entry of a divorce decree on March 19, 2013. Kammers never received a refund from Kienlen of the \$165 she paid for the filing fee.

**MARTINDALE, EVERETT O., Bar No. 74100**, of Little Rock, in Committee Case No. CPC 2016-033, by Consent Findings and Order filed May 20, 2016, for a violation of Rule 8.4(d), was cautioned for his conduct in the representation of appellant Walker in an appeal of a domestic relations matter. Martindale represented Walker in his divorce action, where the trial court terminated Walker’s payment of alimony to his ex-wife, modified his child support, and awarded the ex-wife real property in lieu of the alimony, finding that Walker had purposefully wasted marital assets. Martindale appealed for Walker. The record was due to be filed with the Supreme Court Clerk ninety days from the filing of the first Notice of Appeal on March 11, 2015. Martindale filed a Motion for Extension of Time to file Appeal as the court reporter needed more time to prepare the record. On March 11, 2015, the court entered its Order granting the extension of an additional thirty days, making record due to be filed by Friday, April 10, 2015. On Monday, April 13, 2015, Martindale untimely tendered the record to the Clerk. Martindale filed a Motion for Rule on the Clerk, stating he miscalculated the filing date. On May 14, 2015, the Arkansas Supreme Court entered its Formal Order denying the Motion for Rule on the Clerk, ending his client’s right to an appeal.

**SANFORD, JOSHUA “JOSH”, Bar No. 2001037**, of Russellville and Little Rock, in Committee Case No. CPC 2013-040, by Consent Findings & Order filed June 17, 2016, for violations of Rules 1.5(a), 1.15(a)(1), 1.15(a)(5), and 1.15(b)(1), was cautioned and fined \$1,000. In January 2007, Sanford began representing Henry W. H. Mills (“Henry”), then age twenty-two, who intervened in a child-support action between his parents, Debra Darter and Henry W. Mills (“Mills”). Sanford contracted to represent Henry for an initial fee of \$825.00 plus “the first one

third of the amount of any judgment obtained, without reduction for costs and expenses incurred.” This fee arrangement was memorialized in a document entitled “Mixed-Fee Attorney Contract,” which was signed by Henry. On February 12, 2008, the Circuit Court awarded judgment in favor of Henry against his father Mills for \$13,018.80. The court also awarded a statutory attorney’s fee of \$1,100.50. Sanford appealed the judgment, arguing that the trial court had improperly calculated the interest on the unpaid child support and that the court’s award of the statutory minimum of ten percent (10%) for attorney’s fees was an abuse of discretion. The Court of Appeals held that the trial court had improperly calculated the interest due on Mills’s unpaid child support obligation, and the trial court did not abuse its discretion in awarding the statutory minimum in attorney’s fees.

Sanford argued at the next trial court hearing that his fee agreement with Henry was that Sanford’s fee would be “one-third of the judgment collected,” not the first one-third of the judgment obtained or collected, as Sanford appears to have interpreted and enforced his agreement with Henry. In his appellate submission, Sanford described his fee arrangement with Henry as a contingency fee for one-third of the judgment, never stated as the first one-third of any amount collected. On remand, the trial court awarded judgment in favor of Henry against Mills for \$29,481.74. In July 2009, an order was filed directing garnishment the wages of Mills. The garnishee, Yell County, was directed to pay 55% of Mills’s net pay to attorney Josh Sanford.

In August 2009, a conflict arose which Sanford believed required him to withdraw from his representation of Henry. On August 24, 2009, Sanford filed a Motion for Withdrawal of Intervenor’s Attorneys stating, “During the course of representation of Intervenor, Mr. Sanford and Sanford Law Firm, PLLC, acquired a lien over the proceeds of the judgment granted herein in favor of Intervenor.” The motion also stated, “Although Mr. Sanford and Sanford Law Firm, PLLC, are requesting permission to withdraw from representation of Intervenor, the Order should specify that garnishment checks issued herein should continue to come to the Sanford Law Firm, PLLC, and the order should reflect the ongoing validity of the lien.” The motion does not make any reference to a dollar amount for the asserted lien. Sanford never obtained a ruling on the motion. In March 2011, Sanford agreed with Mills that Mills would pay \$10,000.00 in exchange for Sanford releasing his lien on the judgment obtained on behalf of Henry. Mills wrote a check to Sanford Law Firm for \$10,000 and wrote “paid in full” on it. A Release and Satisfaction of Judgment Lien, signed by Sanford individually and on behalf of Sanford Law Firm, was filed, purporting to release and forever discharge Mills from the judgment lien in favor of Sanford that was asserted or could have been asserted in the litigation docketed as Debra [Darter v. Henry Wayne Mills v. Henry Mills. On March 18, 2011, Sanford filed a Satisfaction of Judgment Lien, which stated that the judgment lien of Sanford had been satisfied in full. A Notice of Termination of Garnishment was file, purporting to terminate the garnishment against Yell County because the Sanford Law Firm “was only pursuing the collection of its lien in this case, and the same has been satisfied.”

When the release, satisfaction of lien, and notice of termination of garnishment were filed, Sanford was still the attorney of record for Henry and the judgment awarded to Henry remained unsatisfied. Sanford understood that Mills believed he was paying Sanford \$10,000 to “get him [Sanford] off his back” so that Sanford would quit trying to collect the judgment in favor of Henry. After discovering that the \$10,000 had not fully settled the judgment against him, Mills filed a

grievance with the Office of Professional Conduct (OPC) against Sanford on November 15, 2012. On January 22, 2013, Henry's new counsel, Veach, delivered to Sanford a proposed Complaint in which Henry would sue Sanford. Sanford responded the same day by e-mail and asked Veach to make a monetary demand on Sanford. By his check dated the same day, Sanford paid Veach \$12,000.00 to settle Henry's claim against Sanford and Sanford's law firm. On March 12, 2013, Sanford wrote a second letter responding to additional OPC inquiries regarding the \$10,000 payment by Mills, attaching a copy of a cancelled check, dated January 22, 2013, made to the order of Peel Law Firm Trust Account for \$12,000, with the words "settlement of H.W. Mills claim" written on it. An order substituting The Peel Law Firm as counsel for Henry was filed on February 12, 2013.

**SOUTHERN, HERBERT C., Bar No. 99105**, of Fayetteville, in Committee Case No. CPC 2016-094, by Findings and Order filed September 26, 2016, for violations of Rules 1.1 and 1.4(b), was cautioned and assessed \$50 costs for his conduct in the representation of Marcio De Oliveira in a criminal case in U.S. District Court for the Western District of Arkansas in which his client entered a guilty plea in 2009 without Southern sufficiently being aware of the mental state requirements for the charge and without Southern sufficiently explaining matters and the mental state requirements to his client. The issue was whether Oliveira knew certain foreign nationals he employed, who were supplied by a third party contractor who was to do alien status background checks, were illegally in the country. In 2013, Oliveira's plea and sentence were vacated on a finding that Southern provided ineffective assistance of counsel.

**STEELE, LARRY JOE, Bar No. 78146**, of Walnut Ridge, Arkansas, in Committee Case No. CPC 2015-033, by a Findings & Order filed February 22, 2016, was cautioned for his violations of AR Rules 1.3 and 8.4(d) on his conduct in representing Tabby Butler in an employment discrimination case. After the United States District Court dismissed Butler's federal claims with prejudice in March 2012, but dismissed the accompanying state claim without prejudice, Steele appealed to the United States Court of Appeals for the Eighth Circuit, which affirmed the decision on March 5, 2013. Steele filed a lawsuit in state court on March 26, 2014. The defendants filed a motion to dismiss and a hearing was held on September 5, 2014. Steele underwent surgery on September 15 and was hospitalized. On September 17, 2014, the state court issued an order dismissing Butler's claim. Steele filed a notice of appeal for Butler on October 22, 2014, which was five days late. Steele filed a motion for rule on clerk, which the court denied on March 5, 2015, causing Butler to lose her right to a state appeal.