

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: MASON J. WANN, Respondent
Arkansas Bar ID#2007293
CPC Docket No. 2011-008

FILED

APR 15 2011

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee from information obtained through the records of the Arkansas Supreme Court Clerk in the case of *Tom Muccio and Nancy Muccio v. Johnelle Hunt, LLC*, 10-1212.

On January 20, 2011, Respondent was served with a formal complaint, supported by records from the appeal of *Muccio v. Hunt*. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on June 17 2010, a Judgment was entered against Tom Muccio and Nancy Muccio in the amount of \$828,926.23. On July 8, 2010, a Notice of Appeal was filed and signed by Mason J. Wann, for K. Vaughn Knight. Mr. Knight and Mr. Wann had until October 6, 2010, to lodge the record on appeal for the Muccios. Neither one did so.

On November 29, 2010, Appellee's counsel filed a Motion to Dismiss Appeal. In the Motion, Appellee's counsel explained that pursuant to Rule 4 of the Arkansas Rules of Appellate Procedure, the record was required to be filed within 90 days of July 8, 2010. However, as of November 24, 2010, the record had not been filed and no motion was filed to extend the time for

filing the record.

After filing the Notice of Appeal, neither Mr. Wann nor Mr. Knight took any further action on the matter to perfect the appeal. On December 8, 2010, Mr. Wann, on behalf of the Knight Law Firm, filed a Response to Motion to Dismiss, along with a Memorandum of Authorities in Support thereof. In the Memorandum of Authorities, Mr. Wann admits that the requirement of filing with record within 90 days of the filing of the first Notice of Appeal was not met.

Mr. Wann also filed an Affidavit in the Supreme Court matter stating that he was the attorney ultimately responsible for the appeal of the Muccio matter. After consideration of the Motion to Dismiss and Response, on December 16, 2010, the Supreme Court dismissed the appeal.

Upon consideration of the formal complaint and attached exhibit materials, the consent proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

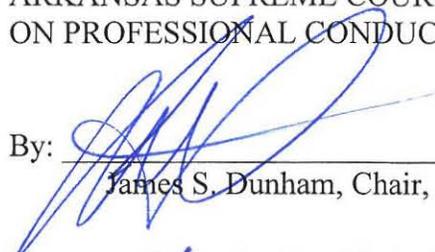
1. That Mr. Wann's conduct violated Rule 1.3 when he failed to file the Muccios' record on appeal within ninety (90) days of the date of the filing of the first Notice of Appeal in the underlying Circuit Court matter. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Wann's conduct violated Rule 8.4(d) because his failure to comply with the requirement of Arkansas Rule of Appellate Procedure 4 to have the record filed with the Clerk within ninety (90) day of the date of the filing of the first Notice of Appeal caused his clients, Tom and Nancy Muccio, to be denied the opportunity to appellate review of the Order

giving Judgment against them to Johnelle Hunt, Inc., in the amount of \$828,926.23. Rule 8.4(d) requires that a lawyer not engage in conduct 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 MASON J. WANN, Arkansas Bar ID# 2007293, be, and hereby is, CAUTIONED for his conduct in this matter. In addition, Mr. Wann is assessed the costs of this proceeding in the amount of FIFTY DOLLARS (\$50), pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. Further, a fine is imposed in the amount of FIVE HUNDRED DOLLARS (\$500), pursuant to Section 18.B of the Procedures. The fine and costs assessed herein, totaling FIVE HUNDRED FIFTY DOLLARS (\$550), shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: 
James S. Dunham, Chair, Panel B

Date: 4-15-2011

(13.M, Rev.1-1-02)