

BOARD NOTES

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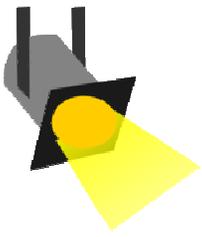
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The Board of Professional Responsibility is pleased to celebrate its 40th Anniversary this year. Please read about the evolution of the Board as outlined in this newsletter. The Board is a valuable asset to attorneys and the public alike, providing pertinent information about the judicial process and the disciplinary system to the public and assisting attorneys in fulfilling their ethical obligations within the confines of the Court's disciplinary rules. In addition to presenting continuing legal education seminars and updating the Board's website with recent developments in rule changes and disciplinary decisions, the Board also publishes this semi-annual newsletter, *Board Notes*, for the benefit of all of the judges and attorneys in Tennessee. We hope that the information contained in this newsletter will be helpful to you as we seek to improve our justice system and the relationship between attorneys and clients.



Board of Professional Responsibility Celebrates 40th Anniversary

By Sandy Garrett, Chief Disciplinary Counsel
Board of Professional Responsibility of the Supreme Court of Tennessee

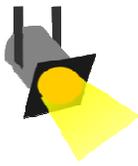
On December 18, 1975, the Tennessee Supreme Court entered an Order effective January 1, 1976, establishing the Board of Professional Responsibility. The Court created the Board of Professional Responsibility in its inherent and exclusive power to supervise attorneys and as part of the Court's decision in *Petition of Tennessee Bar Association*, 532 S.W. 2d 224 (Tenn. 1975).

In its initial design, the Tennessee Supreme Court established the Rules of Disciplinary Enforcement. These Rules created a nine-lawyer Board of Professional Responsibility assisted by two Disciplinary Counsel and four support staff. Twenty-one years later, the Court added three lay members to the nine-member attorneys on the Board. Today, eleven attorneys and 22 support staff assist the Board with registration, consumer assistance, investigations, litigation and ethics inquiries.

The annual fee first set by the Supreme Court was \$15.00 (for attorneys practicing less than five years) and \$25.00 (for attorneys practicing five years or more). The Board's current annual fee is \$170.00. This fee has remained constant since 2009 and is divided among the Tennessee Lawyers Assistance Program, Lawyers Fund for Client Protection and the Board of Professional Responsibility.

In 1977, Chief Counsel Robert Roberts reported, "It has not been an easy task to complete the registration since no comprehensive list existed heretofore. Many lawyers are engaged in the practice of law, as defined in the Rule, but are not full-time private practitioners, and did not know Rule 42 existed..." As of September 1, 1977, 6,300 attorneys were registered with the Board. Today, the Board has 22,422 active attorneys and 4,473 inactive attorneys registered totaling 26,895.

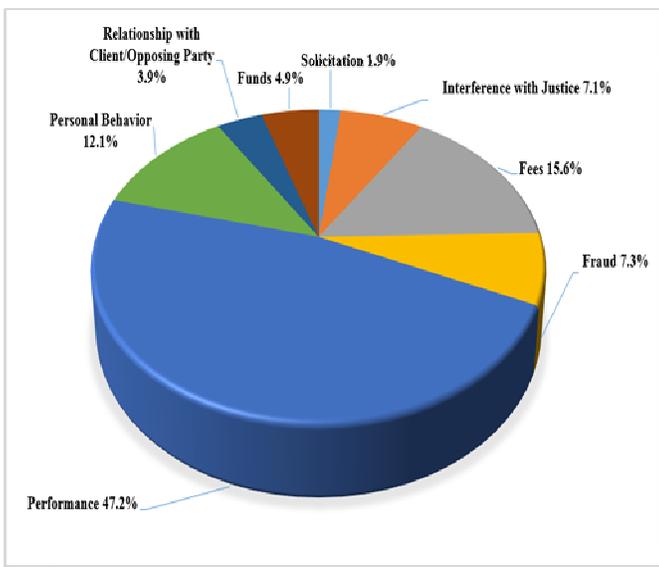
From March 1, 1976 to August 31, 1977, the Board received 411 complaints resulting in 3 private reprimands; 11 suspensions, and 3 disbarments. In 2015-2016, the Board received 1,086 complaints resulting in 42 private informal admonitions; 14 private reprimands; 43 public censures; 27 disciplinary suspensions and 19 disbarments. (Please see the Board's 2015-2016 Annual Report for more detailed information.)



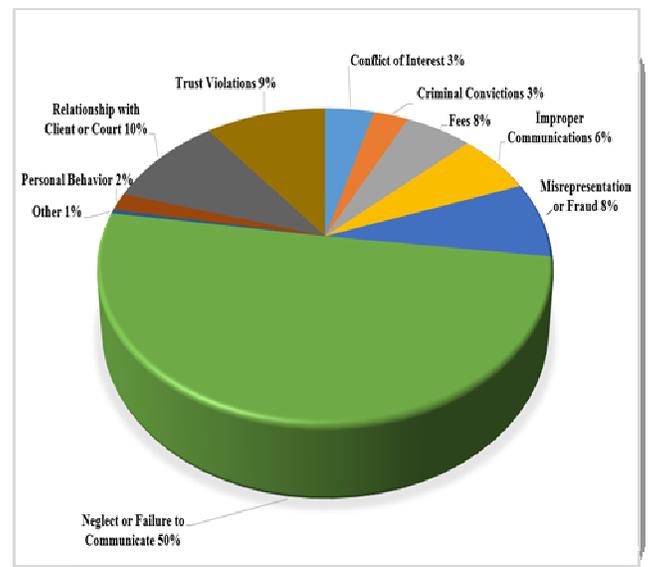
Board of Professional Responsibility Celebrates 40th Anniversary (continued from the previous page)

Finally, in keeping with the adage, “some things never change,” neglect and failure to communicate were the predominant types of complaints in 1977 and that is still true in 2016.

Nature of Complaints -- 1977



Nature of Complaints -- 2016



Through the years, the Board has developed and enhanced programs to assist lawyers, judges and the public. Some of these improvements include written and telephonic ethics opinions, a consumer assistance program, continuing legal education presentations, trust account overdraft notifications, diversion, an Ethics Workshop, online registration, online complaint submission, email notifications and *Board Notes*.

The Board strives to continually improve on assisting the Court in protecting the public; assisting the public by providing information about the judicial system and disciplinary process, and assisting lawyers in interpreting and applying the Rules of Professional Conduct.

Additional Information for Tennessee Attorneys regarding Mental Health and Substance Abuse

This past July, the Board of Professional Responsibility, in collaboration with the Tennessee Lawyers Assistance Program, the Board of Law Examiners, and the Continuing Legal Education Commission, published a Special Edition of *Board Notes* containing information for Tennessee attorneys on mental health and substance abuse. The response to this publication was very positive and resulted in requests for additional information on these topics.

Because of this, we are including additional articles on this topic in the Fall 2016 issue of *Board Notes*. The first article was contributed by Laura McClendon, Executive Director of the Tennessee Lawyers Assistance Program (TLAP) entitled, “You Realize that Your Colleague Needs Help...Now What???” The second article, “Enabling the Alcoholic or Addict,” was authored by J.E. “Buddy” Stockwell, Executive Director of the Louisiana Lawyers Assistance Program. Both articles provide helpful information and insight regarding what to do (or what not to do) if you suspect a colleague may have a mental health or substance abuse issue.

You Realize that Your Colleague Needs Help... Now What???

**By Laura McClendon, Executive Director
Tennessee Lawyers Assistance Program (TLAP)**

Are you concerned about a colleague, friend, or loved one who needs help and may not realize it? Do you see signs of alcohol or drug use that impair work or family relationships? Do you think there may be depression or mental health issues involved? Would you like to help but don't know what to do?

As a member of the legal profession, you are a trained, competent problem solver. It's uncomfortable to find yourself in a position in which you may feel inept, so the first instinct is to ignore it. You can march confidently into any legal arena, but somehow it's petrifying to confront someone you know and/or love to tell them that you're concerned.

Let's start by confirming your fears. The first reaction is always denial: *Maybe I'm imagining it? Maybe it's not that bad. Maybe I'm over reacting. Besides, is it really any of my business? After all, he's been through a lot. I don't want to make it worse! What if I say something and I'm totally off track? It might make things awkward. It might make him hate me!*

The truth is, we don't sit around and worry about people indiscriminately. If you've had a nagging feeling that something is off—it probably is. And most likely you're not the only one who has noticed.

Here are some signs and symptoms when things aren't "right":

**Identifying Attorney:
Alcoholism, Drug Addiction, Substance Abuse, Compulsive Gambling,
Depression, Anxiety and Stress**

Relationship Problems

- | | |
|---|---|
| <input type="checkbox"/> Complaints from clients | <input type="checkbox"/> Inconsistencies/discrepancies in describing events |
| <input type="checkbox"/> Problems with supervisors | <input type="checkbox"/> Hostile attitude |
| <input type="checkbox"/> Disagreements or inability to work with colleagues | <input type="checkbox"/> Overreacts to criticism |
| <input type="checkbox"/> Avoidance of others | <input type="checkbox"/> Unpredictable, rapid mood swings |
| <input type="checkbox"/> Irritable; impatient | <input type="checkbox"/> Non-responsive communication |
| <input type="checkbox"/> Angry outbursts | |

Personal Problems

- | | |
|--|---|
| <input type="checkbox"/> Legal separation or divorce | <input type="checkbox"/> Decreased performance after lunches with alcohol |
| <input type="checkbox"/> Credit problems; judgments; tax liens; bankruptcy | <input type="checkbox"/> Isolating from friends, family and social activities |
| <input type="checkbox"/> Frequent illnesses or accidents | <input type="checkbox"/> Arrests/warnings while under the influence |

You Realize that Your Colleague Needs Help... Now What???

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Attendance Problems

- | | |
|--|--|
| <input type="checkbox"/> Late | <input type="checkbox"/> Ill with vague ailments |
| <input type="checkbox"/> Leaving early | <input type="checkbox"/> Absent (especially Mondays/Fridays) |
| <input type="checkbox"/> Taking "long lunches" | <input type="checkbox"/> Frequent rest room breaks |
| <input type="checkbox"/> Not returning to work after lunch | <input type="checkbox"/> Improbable excuses for absences |
| <input type="checkbox"/> Missing appointments | <input type="checkbox"/> Last-minute cancellations |
| <input type="checkbox"/> Unable to be located | |

Trust Account

- | | |
|---|---|
| <input type="checkbox"/> Missing checks to be deposited | <input type="checkbox"/> Pay personal expenses from trust account |
| <input type="checkbox"/> Debit card withdrawals | <input type="checkbox"/> "Borrowing" from trust account |
| <input type="checkbox"/> Incomplete or irregular records | <input type="checkbox"/> Failure to timely disburse funds |
| <input type="checkbox"/> Pay office expenses from trust account | <input type="checkbox"/> Incomplete accounting for receipts and disbursements |

Performance Problems

- | | |
|---|---|
| <input type="checkbox"/> Missed deadlines | <input type="checkbox"/> Inability to concentrate |
| <input type="checkbox"/> Decreased efficiency | <input type="checkbox"/> Difficulty remembering details or directions |
| <input type="checkbox"/> Decreased performance after lunches with alcohol | <input type="checkbox"/> General difficulty with recall |
| <input type="checkbox"/> Inadequate follow through | <input type="checkbox"/> Blaming or making excuses for poor performance |
| <input type="checkbox"/> Lack of attention | <input type="checkbox"/> Erratic work patterns |
| <input type="checkbox"/> Poor judgment | |

Miscellaneous

- | | |
|---|--|
| <input type="checkbox"/> Failure to renew law license | <input type="checkbox"/> Lapsed insurance policies |
| <input type="checkbox"/> Non-compliance with CLE | <input type="checkbox"/> Failure to file tax returns |
| <input type="checkbox"/> Non-responsive to Discipline | <input type="checkbox"/> Failure to pay taxes |

You Realize that Your Colleague Needs Help... Now What???

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Now What?

You've read the above and your worries have intensified. The first thing you can do is contact TLAP for confidential assistance. Even though you may want to be the one who handles the situation, TLAP can give you the emotional support and coaching that you need.

Next Steps:

- Educate yourself.
- Don't blame yourself.
- Don't take responsibility for making your colleague, friend or loved one well.
- Approach the person to talk about getting help when you are calm.
- Don't make it easier for your colleague, friend or loved one to continue self-destructive behavior.
- Don't preach or lecture.
- Don't use guilt.
- Realize that your colleague, friend or loved one's illness can affect his or her thoughts and views.
- Do your best to give support and be patient throughout the recovery process.
- Allow your colleague, friend or loved one to spend the time he/she needs with support, groups and treatment.
- Get support for yourself.
- Never give up hope.

Approaching the Colleague

- **Concern:** State your love and/or concern for the person.
- **Incident:** Describe in detail a specific incident that backs up your concern.
- **Evidence:** If you have evidence or additional details about other incidents, present them now.
- **Feelings:** Describe how being a helpless witness to the problem has made you feel.
- **Concern:** Close with another statement of concern.
- **Action:** Tell them what you'd like them to do get help. You can always tell them to call TLAP.

You Realize that Your Colleague Needs Help... Now What???

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Examples

(Provided by the Ohio Lawyers Assistance Program)

Mental Health

Joan, I'm present because I care about you. I can no longer sit idly by and watch you destroy yourself and your career. I'm concerned about your clients and if you are adequately meeting their needs.

I have watched you withdraw from the partners and avoid office staff when they attempt to pin down your appointments. You are irritable in your dealings with both staff and clients. You've shared that you are not sleeping well. You look tired and worn out. I know you haven't been at the athletic club.

It is obvious to me that something is wrong. You aren't submitting time sheets. You're late in the office, working late hours in the evening, and spending more time in the office on weekends. To be honest, I don't know what you're working on. I see little productivity. Your clients are calling me for updates on their files. You have missed filing deadlines in court. You don't seem to have the focus you once did. I don't think you are drinking, but I think you are depressed or burned out or both.

I'm worried about your neglect of yourself and for the clients. Please get the help suggested by TLAP.

Drug and/or Alcohol Dependence

Mike, I have known you for over 15 years. We have practiced law together for over 10 of them. For the first _____ years you were competent and I was proud to be your partner. Not now. You come to work late. You take extended lunches and you leave early. The morning after you've had a bender, I can smell the alcohol coming from your pores. There is talk all over the courthouse about you appearing with alcohol on your breath. You were a partier in law school. Heck, we all were known to have a few. Mike, I've never seen you slow down. I even heard that you were seen at that strip bar on Cleveland Avenue, intoxicated, with a huge wad of cash.

The firm is getting complaints. I've heard you lie to clients on the phone, avoid their calls and ask our staff to lie about your being in court. You are losing your credibility with clients and colleagues. I thought the DUI you got two years ago would have been a wake-up call. It doesn't appear so. I can't believe anything you say to me anymore. Frankly, I'm tired of covering for you.

The fact of the matter is, Mike, you just plain don't look good. You have tremors, I've seen sweat running down your forehead in the middle of the morning. Your eyes are always red. You are really going downhill. I have to keep telling you the same information regarding client matters and you then try to act like you are quizzing me. It looks like you are having blackouts. You just aren't retaining information. I'm worried that you don't have it under control. I think the tail is wagging the dog. This is not the path you want to be on. Honestly, I miss you, Mike. You can't lick this one on your own and you don't have to. I want you to get help and follow up on treatment if it is suggested. I need you to call TLAP today.

You Realize that Your Colleague Needs Help... Now What???

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TLAP

TLAP is a free, confidential assistance program providing consultation, referral, intervention, and crisis counseling for lawyers, judges, bar applicants and law students who are struggling with substance abuse, stress or emotional health issues. TLAP's work contributes to the protection of the public and the improvement of the integrity and reputation of the legal profession.

Call today (615) 741-3238 or (877) 424-8527.

Additional articles about helping your colleague:

- ***“Enabling” The Alcoholic or Addict***, by Buddy Stockwell, Executive Director, Louisiana Lawyers Assistance Program
- ***Coping Tips For Families Of Persons With A Mental Health Condition***, by the Oregon Lawyer Assistance Program
- ***When Helping Hurts: A Guide For Law Firms And Families, Part 1 and Part 2***, by Robynn E. Moraites, Executive Director, North Carolina Lawyers Assistance Program
- ***Identifying Suicidal Signs***, by Dr. Darcy Haag Granello & Dr. Paul F. Granello
- ***Suicide Warning Signs***, Tennessee Lawyers Assistance Program: www.tlap.org

“Enabling” the Alcoholic or Addict

By J.E. (Buddy) Stockwell, Executive Director, Louisiana Lawyers Assistance Program*

Alcoholics and drug addicts often have “enablers” behind the scenes who, without even realizing it, play a role in supporting, rather than arresting, the diseases of alcoholism and addiction.

Enabling emanates from a sense of duty to protect loved ones and to help friends. We assist in getting the person out of immediate troubles with a DWI arrest, financial difficulty or failed responsibilities. We assume that the person will have learned his/her lesson, be thankful for the help and will “fly right” thereafter.

But when it comes to the alcoholic or addict, the bitter truth is that when family and friends protect a person from the full consequences of his/her substance-use-related behavior, they also participate indirectly in minimizing the true severity of the problem. With the severe consequences abated, the problem is no longer seen as serious so clinical intervention is not sought.

Authors Jeff and Debra Jay, experts in the field of clinical intervention, write about “enabling” in their book *LOVE FIRST, a Family’s Guide to Intervention* (2008, 2nd Edition, Hazelden Press) and delineate two categories: 1) Innocent Enabling; and 2) Desperate Enabling.

Innocent Enabling occurs during the incubatory stages of substance-use disorders. It is rooted in love for the person and in denial as to the true potential for an alcohol or drug problem. The Substance-related problems of a loved one or friend or friend are written off as bad luck, youthful indiscretions, stress-related or perhaps all deemed the result of a “wild phase” that will surely pass in the fullness of time.

As the person’s team of enablers continues to bail the person out of recurring scrapes, the enablers likely find themselves going to greater and greater lengths to protect the person from consequences. Enablers will do things such as concoct alibis for the person’s behavior, loan the person money, or use influence to sway police, prosecutors or the court to “go easy” on repeat substance-related arrests, etc.

Despite all of the enablers’ help, eventually the person gets into more scrapes and more troubles due to alcohol (or drugs). In their book *LOVE FIRST*, the Jays describe this first, innocent stage of enabling as “fertilizer” that actually *supports* the growth of the disease of alcoholism or addiction in the person.

To the enablers’ credit and recognizing that their intentions are good, it’s often very difficult to see these situations for what they really are. When a son or daughter is arrested for driving drunk or for possession of illegal substances, for example, the parents usually seek the aid of a lawyer to help their loved one navigate the criminal justice system. Most of the time, no one even thinks about sending the son or daughter to a high-quality treatment center or for an in-depth, substance-use-disorder assessment. The focus is on avoiding prosecution, not on finding real answers as to why the loved one behaved in a way that resulted in arrest.

*Reprinted with permission.

“Enabling” the Alcoholic or Addict

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So, in many cases, the opportunity to address alcoholism and addiction in the early stages is missed. While the enablers wait and hope that the person will outgrow the alcohol or drug problem, the disease does not wait; it uses the time to strengthen its grip upon the person.

Desperate Enabling is the next phase. It is rooted in reality and fear. The alcohol (or drug) use is out of control and family and friends know it. There is no longer any way to pretend with a straight face that the person is not an alcoholic or addict. But, even then, enabling and covering up problems are still the default settings. Families fear that the family’s reputation will be harmed if the truth gets out. There is also fear of what might happen to the alcoholic or addict, including the possibility of being incarcerated in some cases. Friends begin to stay clear and don’t know how to help anymore.

Extreme examples involve adult alcoholics or addicts moving back in with parents. The parents will house, clothe, feed and supply the son or daughter with money (for drugs, if need be, even illegal drugs). Parents will pay off gambling debts, continue to pay off drug dealers or give an allowance for drugs, and do whatever it takes to try and reduce the alcoholic’s or addict’s pain.

The Jays report that, on average, it takes 11 years for a family to shift the efforts from enabling to promoting clinical intervention and treatment. Unless the enablers change, there is little or no incentive for the alcoholic or addict to change.

Formal Ethics Opinions

2016-F-161



On September 9, 2016, the Board of Professional Responsibility issued a Formal Ethics Opinion regarding the ethical propriety of a settlement agreement that requires the release of lawyer work product. To the extent settlement provisions require attorneys to turn over documents protected by the lawyer work product doctrine, the provisions may be prohibited by Tennessee Rule of Professional Conduct 5.6(b). That is, a lawyer may not propose or agree to a settlement agreement that requires a lawyer to turn over any work product materials as part of the settlement if that action will restrict his representation of other clients.

A copy of Formal Ethics Opinion 2016-F-161 is attached.

BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

FORMAL ETHICS OPINION 2016-F-161

The Board of Professional Responsibility has been requested to issue a Formal Ethics Opinion on the ethical propriety of a settlement agreement that requires the release of lawyer work product.

OPINION

To the extent settlement provisions require attorneys to turn over documents protected by the lawyer work product doctrine, the provisions may be prohibited by Tennessee Rule of Professional Conduct 5.6(b). That is, a lawyer may not propose or agree to a settlement agreement that requires a lawyer to turn over any work product materials as part of the settlement if that action will restrict his representation of other clients.

DISCUSSION

The inquiring lawyer has encountered a condition to settlement in product liability cases against a certain defendant that requires plaintiff's counsel to release his work product.

Plaintiff's counsel received from Defendant 541,927 pages in image form and had to electronically convert every single page to a pdf document. Plaintiff's counsel then processed the 541, 927 pages with optical character recognition to make each document searchable. The documents were then organized by relevant subtopics and incorporated into demonstrative exhibits. Creating this work product was the only way to understand the complex issues in the case, articulate the product defects, depose experts, present claims, and ultimately reach a successful settlement for the client. Plaintiff's counsel relied on the produced materials to cut a full-size vehicle into parts for use in explaining complex engineering, vehicle dynamics, and safety mechanisms to the jury. This demonstrative evidence is useless without the underlying work product.

The parties agreed on a settlement amount, and as a condition precedent to signing the settlement agreement Defendant demanded return of **all** documents produced which included Plaintiff counsel's work product.

Work product has been defined as “tangible material or its intangible equivalent” that is collected or prepared in anticipation of litigation.¹ The United States Supreme Court in a unanimous decision recognized that the work-product doctrine includes information obtained or produced by or for attorneys in anticipation of litigation.²

The work product doctrine acts as a shield to protect the client’s position for settlement or at trial. Releasing work product papers as a condition for settlement may be distinguishable from the protection afforded to an attorney and client during discovery. It is not uncommon for attorneys to retain files and review portions of those files for use in later cases.³

Any type of restriction of a plaintiff’s attorney on representing future claimants against the same defendant are ethically inappropriate and violates RPC 5.6(b) and pertains to impermissible restrictions on a lawyer’s practice.⁴ Other types of restrictions that are less onerous than a complete prohibition against subsequent representation of clients against a settling party defending a claim may similarly violate RPC 5.6(b) which says “A lawyer shall not participate in offering or making:... (b) an agreement in which a restriction on the lawyer’s right to practice is part of the settlement of a client controversy.”

ABA Formal Opinion 93-371 articulates the three policy considerations underlying this rule. First, there is a risk that the public’s access to the best attorney for a particular case will be curtailed. Second, such a restraint could be motivated by an effort to “buy off” counsel rather than to resolve the dispute. Third, a restriction on an attorney’s right to practice may place him or her in a position where the interests of the current client are in conflict with those of potential future clients.

Ethics committees in other jurisdictions have recognized the impropriety of practice restrictions that fall short of an outright bar to future or ongoing representation.⁵

The test of the propriety of a settlement provision under Rule 5.6(b) is whether it would restrain a lawyer’s exercise of independent judgment on behalf of other clients to an extent greater than that of an independent attorney not subject to such a limitation.⁶ The tests formulated by other jurisdictions are useful. “While these tests are worded differently, they all boil down to one essential question: how does a particular settlement provision affect an attorney’s ability to represent another client in a matter involving the same or a related opposing party?”⁷ If the provision has no effect, it will not violate Rule 5.6(b). On the other hand, if a provision does affect a lawyer’s ability to represent another client and that effect is negative, the provisions would be impermissible under Rule 5.6(b).⁸

¹ Black’s Law Dictionary (Abridged 7th ed.) St. Paul, Minn : Westgroup p. 1298.

² Hickman v. Taylor, 329 U.S. 495 (1947).

³ State Bar of New Mexico Advisory Opinions Committee Advisory Opinion 1985-5 (Oct. 23, 1985).

⁴ Tennessee Formal Ethics Opinion 98-F-141,(Feb. 4, 1998) citing ABA Formal Ethics Opinion 93-371.

⁵ State Bar Association of North Dakota Ethics Committee, Opinion No. 97-05 (June 30, 1997).

⁶ Colorado Ethics Opinion 92 (June 19, 1993).

⁷ Florida Bar Ethics Opinion 04-2 (January 21, 2005)

⁸ Florida Bar Ethics Opinion 04-2 (January 21, 2005)

Although some jurisdictions have found that the returning of documents obtained in discovery as a condition for settlement is not unethical in proper circumstances⁹, attorney work product materials raise a separate but related question.¹⁰

The State Bar Association of North Dakota Ethics Committee addressed the return of documents produced in discovery as a condition of settlement and concluded that Rule 5.6(b) does not prohibit the agreement to return documents produced in discovery if the documents in question do not constitute work product. “However, to the extent the provisions are interpreted to require Attorney B to turn over documents protected by the attorney work product doctrine, the provisions may be prohibited by Rule 5.6(b). That is Attorney B may not agree to turn over any work product materials as part of the settlement if that action will restrict his representation of other clients. Whether providing the opposing side access to or losing his or her own access to work product materials would restrict the attorney’s representation of other clients is a factual question the attorney must decide based on the documents involved and the facts and circumstances of the case.”¹¹

The State Bar Association of North Dakota Ethics Committee concluded in their Ethics Opinion 97-05 “Under Rule 5.6(b) an attorney may not agree—even at a client’s request: To turn over to opposing party or counsel documents protected by the attorney work product doctrine if that action would restrict the attorney’s representation of other clients...”.

If an attorney is required to disclose his/her entire work product, it may inhibit representation of subsequent clients. If this were to occur, defense counsel would accomplish indirectly what they cannot accomplish by directly precluding the attorney from representing other plaintiffs with similar claims.¹² Further, it appears to create a conflict between the lawyer who has an interest in preserving work product to aid in the representation of future clients and the lawyer’s current client who has an interest in obtaining the settlement funds.

⁹ Colorado Ethics Opinion 92 (June 19, 1993).

¹⁰ State Bar of New Mexico Advisory Opinions Committee Advisory Opinion 1985-5 (Oct. 23, 1985)

¹¹ State Bar Association of North Dakota Ethics Committee, Opinion No. 97-05 (June 30, 1997).

¹² State Bar of New Mexico Advisory Opinions Committee Advisory Opinion 1985-5 (Oct. 23, 1985).

CONCLUSION

It is improper for a lawyer to propose or accept a provision in a settlement agreement that requires release of work product which would restrict the lawyer's representation of other clients as prohibited by Tennessee Rules of Professional Conduct 5.6(b).

This 9th day of September, 2016

ETHICS COMMITTEE

John Kitch

Dana Dye

Kenny Blackburn

APPROVED AND ADOPTED BY THE BOARD

Disciplinary Actions

- (March, 2016 – August, 2016)
-

DISBARMENTS

CHRISTOPHER LEE BROWN, BPR #15788 SHELBY COUNTY

On March 30, 2016, Christopher Lee Brown, of Memphis, Tennessee, was disbarred from the practice of law by Order of the Tennessee Supreme Court. In addition, Mr. Brown must make restitution as a condition of reinstatement. The order is effective March 30, 2016. Mr. Brown must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

Mr. Brown took a fee from a client and failed to perform the work for which he was retained. He failed to refund the unearned fee. He failed to advise the client of his prior suspensions in violation of a Tennessee Supreme Court order. He made misrepresentations to his client leading him to believe that he was continuing to work on his matter when he was not. Mr. Brown abandoned the representation of his client and also abandoned his law practice.

Mr. Brown's ethical misconduct violated Tennessee Rules of Professional Conduct 1.3, Diligence; 1.4, Communication; 1.16, Declining and Terminating Representation; and 8.4(a), (c) and (g), Misconduct.

Mr. Brown was previously suspended for three (3) years by the Tennessee Supreme Court on October 7, 2013 and disbarred on July 20, 2015. He has not been reinstated from the suspension or disbarment.

Mr. Brown must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

CHRISTOPHER LEE BROWN, BPR #15788 SHELBY COUNTY

On July 12, 2016, Christopher Lee Brown, of Memphis, Tennessee, was disbarred from the practice of law by Order of the Tennessee Supreme Court. In addition, Mr. Brown must make restitution as a condition of reinstatement. The disbarment begins July 12, 2016. Mr. Brown must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

Mr. Brown took a fee from a client and failed to perform the work for which he was retained. He failed to refund the unearned fee. He failed to advise the client of his prior suspensions in violation of a Tennessee Supreme Court order. Mr. Brown abandoned the representation of his client and also abandoned his law practice. He failed to respond to the Board's request for information.

DISBARMENTS (continued)

Mr. Brown's ethical misconduct violated Tennessee Rules of Professional Conduct 1.3, Diligence; 1.4, Communication; 1.16, Declining and Terminating Representation; 8.1, Bar Admission and Disciplinary Matters; and 8.4(a) and (g), Misconduct.

Mr. Brown was previously suspended for three (3) years by the Tennessee Supreme Court on October 7, 2013, disbarred on July 20, 2015 and disbarred on March 30, 2016. He has not been reinstated from the suspension or disbarments.

Mr. Brown must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

LEROY CAIN, JR., BPR #6510
DAVIDSON COUNTY

On July 27, 2016, Leroy Cain, Jr., of Nashville, Tennessee, was disbarred from the practice of law by Order of the Tennessee Supreme Court. He was also ordered to pay restitution to his client or the Tennessee Lawyers' Fund for Client Protection. Mr. Cain must pay the Board's costs and expenses.

A Petition for Discipline was filed on August 4, 2015, that included one (1) complaint of misconduct. After settlement at mediation, Mr. Cain received the settlement check from the defendant in the amount of \$8,250.00. Thereafter, he remitted \$1,200.00 to his client. Following a fee dispute arbitration, Mr. Cain was ordered to remit the entire amount of the settlement to his client and he failed to do so. A Hearing Panel held that Mr. Cain's ethical misconduct violates Rules of Professional Conduct 1.15, Safekeeping Property and Funds, and 8.4 (a) (b) and (c), Misconduct.

Mr. Cain must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30.4, regarding the obligations and responsibilities of suspended attorneys. The Court's Order is effective immediately.

KEITH LAMONTE DOBBS, BPR #26271
SHELBY COUNTY

On July 21, 2016, Keith Lamonte Dobbs, of Memphis, Tennessee, was disbarred by Order of the Tennessee Supreme Court. The disbarment begins July 21, 2016. Mr. Dobbs must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

Mr. Dobbs consented to disbarment because he could not successfully defend himself on charges made against him with the Board of Professional Responsibility alleging that he violated Tennessee Rules of Professional Conduct. Tennessee Supreme Court Rule 9, Section 23, requires that Mr. Dobbs' consent to disbarment be maintained under seal.

DISBARMENTS (continued)

Mr. Dobbs must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of disbarred attorneys and the procedures for reinstatement.

JOHN LYNDON LOWERY, BPR #16195
DAVIDSON COUNTY

On June 24, 2016, John Lyndon Lowery, of Nashville, Tennessee, was disbarred from the practice of law by Order of the Tennessee Supreme Court. In addition, Mr. Lowery must make restitution to nine clients as a condition of reinstatement. The disbarment begins June 24, 2016. Mr. Lowery must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

Mr. Lowery settled nine cases without his clients' knowledge or consent, signed their names to settlement checks without their permission, misappropriated the settlement funds and made misrepresentations to the clients to make them think their cases were progressing normally. In a tenth case, he failed to take any action resulting in the case being dismissed and failed to inform his client. Mr. Lowery pled guilty in Davidson County Criminal Court to seven counts of theft and eight counts of forgery, all felonies.

Mr. Lowery's ethical misconduct violated Tennessee Rules of Professional Conduct 1.1, Competence; 1.2, Scope of Representation; 1.3, Diligence; 1.4, Communication; 1.5, Fees; 1.15, Safekeeping Property and Funds; 3.2, Expediting Litigation; 8.1, Bar Admission and Disciplinary Matters; and 8.4, Misconduct.

Mr. Lowery was previously suspended for failure to pay professional privilege tax on September 29, 2015. That suspension remains in effect. On May 28, 2015, Mr. Lowery was temporarily suspended by the Tennessee Supreme Court for posing a threat of substantial harm to the public. As Mr. Lowery is now disbarred, the temporary suspension is dissolved.

Mr. Lowery must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

STEVEN E. SAMS, BPR #22560
KNOX COUNTY

On August 5, 2016, Steven E. Sams of Knoxville, Tennessee, was disbarred from the practice of law by Order of the Tennessee Supreme Court. Mr. Sams must pay the Board's costs and expenses.

A Petition for Discipline was filed on November 18, 2015, that included one (1) complaint of misconduct. On September 12, 2013, Mr. Sams was temporarily suspended from the practice of law for failing to respond in an unrelated ethics complaint. Following his temporary suspension, Mr. Sams contacted the surviving heirs of a deceased acquaintance, represented to them that he was an attorney licensed to practice law in Tennessee, and offered to serve as the administrator of their mother's estate.

DISBARMENTS (continued)

Mr. Sams sent the heirs a letter with “Sams Law Firm, PLLC” on the letterhead, and included declinations for the heirs to sign, which stated: “I hereby nominate Attorney Steven E. Sams to serve as Personal Representative.” Mr. Sams filed a petition to open the estate that included the declinations and pleadings that represented that his employer was Sams Law Firm, PLLC.

Mr. Sams’ ethical misconduct violated Tennessee Supreme Court Rule 9, Section 18.7 (2006), new representation prohibited after suspension, and Rules of Professional Conduct 1.4, communication, 3.3, candor toward the tribunal, 5.5 (b), unauthorized practice of law, 7.1, communication concerning legal services, 7.5, firm letterheads, 8.1, failing to respond, and 8.4 (a) and (g), misconduct.

SUSPENSIONS

FRANK ALFRED BAKER, BPR #31931 FLORIDA

On July 25, 2016, the Tennessee Supreme Court suspended Frank Alfred Baker from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Baker was suspended based upon his conviction of serious crimes; i.e., conspiracy to commit wire fraud, making a false statement to the FDIC and making a false claim against the United States, four counts of wire fraud, two counts of false statement to the FDIC, and false claim against the United States.

The Supreme Court ordered the Board to institute a formal proceeding to determine the extent of final discipline to be imposed as a result of Mr. Baker’s guilty plea.

Mr. Baker must comply with Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities suspended attorneys.

MICHAEL BARTON BROOKS, BPR #10916 SHELBY COUNTY

On April 8, 2016, the Tennessee Supreme Court suspended Michael Barton Brooks from the practice of law for three years, retroactive to December 3, 2015, pursuant to Tennessee Supreme Court Rule 9, Section 12.2. Mr. Brooks was summarily suspended on December 3, 2015, pursuant to Tennessee Supreme Court Rule 9, Section 22.3, based upon his guilty plea to a serious crime; i.e., aggravated assault and vehicular assault.

The Board of Professional Responsibility filed a final petition for discipline against Mr. Brooks and he entered a guilty plea that acknowledged violation of Tennessee Rules of Professional Conduct 8.4(a) and (b) (misconduct).

SUSPENSIONS (continued)

The order was effective upon entry. Mr. Brooks must pay the Board's costs and expenses within ninety days of entry of the Order of Enforcement. Mr. Brooks must comply with Tennessee Supreme Court Rule 9, Section 28 regarding the obligations and responsibilities of suspended attorneys.

HOMER L. CODY, BPR #10755 ***SHELBY COUNTY***

On July 7, 2016, Homer L. Cody, of Memphis, Tennessee, was suspended for one year by the Tennessee Supreme Court. The suspension will begin on July 17, 2016. Further, Mr. Cody must pay the Board of Professional Responsibility's costs and expenses and the court costs within ninety days.

Mr. Cody represented the plaintiffs in a lawsuit wherein the judge found that Mr. Cody had a conflict of interest. The court disqualified Mr. Cody from continuing to represent the plaintiffs. Mr. Cody was ordered to refrain from filing any other pleadings on behalf of the plaintiffs. The judge dismissed the plaintiffs' case. When two of the plaintiffs appealed, Mr. Cody circumvented the court's order by writing two appellate briefs for those plaintiffs who then signed and filed the briefs as if they were not represented by an attorney.

A Hearing Panel found Mr. Cody's actions violated the following Rules of Professional Conduct: 3.4(c), Fairness to Opposing Party, and 8.4(a), (c) and (d), Misconduct. Mr. Cody appealed the decision to the Circuit Court for Shelby County, which affirmed the Hearing Panel's decision. Mr. Cody appealed the decision of the Shelby County Circuit Court to the Supreme Court of Tennessee. The Supreme Court dismissed Mr. Cody's appeal because the brief he filed did not comply with the Tennessee Rules of Appellate Procedure.

Mr. Cody must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 18 (2006) and 30 (2014), regarding the obligations and responsibilities of suspended attorneys.

JOHN ARNOLD FITZGERALD, BPR #796 ***RHEA COUNTY***

On March 28, 2016, John Arnold Fitzgerald, of Dayton, Tennessee, was suspended from the practice of law by Order of the Tennessee Supreme Court for four (4) years. The suspension was made retroactive to Mr. Fitzgerald's Temporary Suspension entered September 10, 2014, and was effective immediately upon entry. Mr. Fitzgerald must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

The Board of Professional Responsibility filed a Petition for Discipline and a Supplemental Petition for Discipline against Mr. Fitzgerald based upon three (3) complaints of misconduct alleging he improperly used his trust account for personal and business purposes, failed to properly handle and protect client and third-party funds provided to him, failed to account for client and third-party funds and failed to comply with a final court order.

SUSPENSIONS (continued)

Mr. Fitzgerald's actions violated Rules of Professional Conduct 1.15 (safekeeping property and funds); 3.4(c) (fairness to opposing party and counsel); and 8.4(a) and (d) (misconduct).

Mr. Fitzgerald must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

CARLA ANN KENT FORD BPR #14312
RUTHERFORD COUNTY

On May 20, 2016, the Tennessee Supreme Court suspended Carla Ann Kent Ford from the practice of law pending further Orders of the Court, pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Ford was summarily suspended based upon her felony conviction for violating Tenn. Code Ann. § 39-14-103; i.e., theft of property valued in excess of \$1,000.00 but less than \$10,000.00.

The Supreme Court referred the matter to the Board of Professional Responsibility for the institution of formal proceedings to determine the extent of final discipline to be imposed as a result of Ms. Ford's guilty plea.

Ms. Ford must comply with Tennessee Supreme Court Rule 9, Section 28 regarding the obligations and responsibilities of suspended attorneys.

LINDA KAYE KENDALL GARNER, BPR #13573
SHELBY COUNTY

Effective June 15, 2016, Linda Kaye Kendall Garner, of Memphis, Tennessee, was suspended from the practice of law by Order of the Tennessee Supreme Court for one (1) year, with thirty (30) days to be served as active suspension and the remainder on probation. Upon successful completion of her active suspension period and the entry of an order of reinstatement by the Supreme Court, Ms. Garner may resume the practice of law. Ms. Garner must pay the costs and expenses of the Board and court costs within ninety days of the entry of the Order of Enforcement.

Ms. Garner was retained to prosecute a defamation case and during the representation, failed to file an appropriate pleading in opposition to a motion for summary judgment. After the court granted summary judgment to the defendant, Ms. Garner filed a timely motion to set aside and a proposed response to the motion for summary judgment. However, Ms. Garner failed to set her motion to be timely heard and, pursuant to Arkansas law, the motion was deemed denied, and the trial court lost jurisdiction to address the dismissal. Ms. Garner filed a timely appeal which was denied. In an unrelated matter, Ms. Garner used her trust account improperly to pay for personal and business expenses over a period of two years.

Ms. Garner's actions violated Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.15 (safekeeping property and funds), and 8.4(a) (misconduct).

SUSPENSIONS (continued)

Ms. Garner must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

WILLIAM C. GOSNELL, BPR #4369
SHELBY COUNTY

Effective July 11, 2016, William C. Gosnell, of Memphis, Tennessee, is suspended from the practice of law for a period of two (2) years by Order of the Tennessee Supreme Court entered July 1, 2016. Mr. Gosnell must pay restitution in the amount of \$600.00 and the costs of the disciplinary matter to the Board and to the Court.

On February 13, 2013, the Board of Professional Responsibility filed a Petition for Discipline against Mr. Gosnell, and a Supplemental Petition for Discipline on September 24, 2013, based upon two (2) complaints of misconduct. In the first matter, Mr. Gosnell advised his client in a personal injury action she could accept full settlement from the opposing party's insurance company without releasing the opposing party. Thereafter, without informing opposing counsel, Mr. Gosnell altered the settlement document to remove the opposing party's name from the release and delayed returning the release to opposing counsel well after disbursing the settlement funds. Suit was filed against Mr. Gosnell and his client to enforce the settlement. In the second matter, Mr. Gosnell filed a Petition for Bankruptcy without his client's signature or consent, in violation of the Bankruptcy Court's rules. Although Mr. Gosnell took appropriate action to dismiss the petition, the filing of the petition was reported to credit agencies and prevented the client from completing the purchase of a house. Mr. Gosnell was sanctioned by the Bankruptcy Court and ordered to disgorge his attorney fee.

Mr. Gosnell's conduct violated Tennessee Rules of Professional Conduct 1.1 (competence); 1.4(a) and (b) (communication); 3.3(a) (candor toward the tribunal); 3.4(c) (fairness to opposing party and counsel); and 8.4(a), (c) and (d) (misconduct).

Mr. Gosnell must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 18 (2006) and 30 (2014), regarding the obligations and responsibilities of suspended attorneys and may not return to the active practice of law until an order of reinstatement has been entered by the Supreme Court.

WENDAL DOUGLAS JACKSON, BPR #1370
SULLIVAN COUNTY

On August 1, 2016, the Tennessee Supreme Court suspended Wendal Douglas Jackson from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Jackson was suspended based upon his conviction of a serious crime; i.e., attempted extortion.

On July 28, 2016, the law license of Mr. Jackson was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9. Mr. Jackson cannot practice law while on disability inactive status. In its August 1, 2016 order, The Supreme Court ordered the Board to institute a formal

SUSPENSIONS (continued)

proceeding to determine the extent of final discipline to be imposed as a result of Mr. Jackson's guilty plea at such time as his disability inactive status is removed.

Mr. Jackson must comply with Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of suspended attorneys.

On June 17, 2016, the Supreme Court of Tennessee temporarily suspended Mr. Jackson from the practice of law upon finding that Mr. Jackson poses a substantial threat of harm to the public, pursuant to Tennessee Supreme Court Rule 9, Section 12.3. That suspension remains in effect.

EVERETT HOGE MECHEM, BPR #11854
SULLIVAN COUNTY

Effective July 11, 2016, the Tennessee Supreme Court suspended Everett Hoge Mechem from the practice of law pending further Orders of the Court, pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Mr. Mechem was suspended based upon a verdict of guilty entered June 13, 2016, in *United States of America v. Everett H. Mechem*, Case No. 2:15-CR-71, United States District Court for the Eastern District of Tennessee, for violating Title 18 United States Code Section 1343: Wire Fraud; Title 42 United States Code Section 1383a(a)(3): Supplemental Security Income Fraud; Title 18 United States Code Section 1001: False Statement; and Title 18 United States Code Section 641: Theft of Public Money.

The Supreme Court referred the matter to the Board of Professional Responsibility for the institution of formal disciplinary proceedings to determine the extent of final discipline to be imposed as a result of Mr. Mechem's criminal conviction for serious crimes.

Mr. Mechem must comply with Tennessee Supreme Court Rule 9, Section 28 regarding the obligations and responsibilities of suspended attorneys.

JENNIFER ELIZABETH MEEHAN, BPR #22932
SOUTH CAROLINA

On August 10, 2016, the Tennessee Supreme Court suspended Tennessee licensed attorney, Jennifer Elizabeth Meehan from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Meehan was suspended based upon her plea of guilty to a serious crime; i.e., bank fraud.

The Supreme Court ordered the Board of Professional Responsibility to institute a formal proceeding to determine the extent of final discipline to be imposed as a result of Ms. Meehan's guilty plea.

Ms. Meehan must comply with Tennessee Supreme Court Rule 9, Section 28, regarding the obligations and responsibilities of suspended attorneys.

SUSPENSIONS (continued)

JOSEPH BRENT NOLAN, BPR #15237
KNOX COUNTY

On June 17, 2016, Joseph Brent Nolan, of Knoxville, Tennessee, was suspended from the practice of law by Order of the Tennessee Supreme Court for one (1) year. The suspension begins on June 17, 2016. Mr. Nolan must pay the Board's costs and expenses and the court costs within ninety days of the entry of the Order of Enforcement.

Mr. Nolan was previously suspended for one (1) year on December 6, 2014 and for six (6) months on June 26, 2015. While both suspensions were still in effect, Mr. Nolan performed legal services for two different clients. In one instance, he prepared a will, power of attorney and living will for a client. In another instance, he provided contractual documents to be used by a client in a commercial transaction.

Mr. Nolan's actions violated RPC 5.5 (unauthorized practice of law) and 8.4(a) and (g) (misconduct).

Mr. Nolan must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 28 and 30, regarding the obligations and responsibilities of suspended attorneys.

KATHERINE EVETT SMITH, BPR #23028
SHELBY COUNTY

On June 24, 2016, the Supreme Court of Tennessee temporarily suspended Katherine Evett Smith from the practice of law upon finding that Ms. Smith failed to respond to the Board regarding a complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to the Board regarding a complaint of misconduct.

Ms. Smith is immediately precluded from accepting any new cases, and she must cease representing existing clients by July 24, 2016. After July 24, 2016, Ms. Smith shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Ms. Smith must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending her law license. Ms. Smith is required to deliver to all clients any papers or property to which they are entitled.

This suspension remains in effect until dissolution or modification by the Supreme Court. Ms. Smith may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

SUSPENSIONS (continued)

THOMAS ALAN SNAPP, BPR #13962
SULLIVAN COUNTY

On July 21, 2016, the Supreme Court of Tennessee suspended the law license of Thomas Alan Snapp of Sullivan County, Tennessee, for five (5) years and ordered Mr. Snapp to pay the Board's costs and expenses.

The Board of Professional Responsibility filed a Petition for Discipline against Thomas Alan Snapp on April 7, 2015, based upon two (2) complaints of misconduct alleging misappropriation, unauthorized practice of law and misconduct. After he was administratively suspended from the practice of law, Mr. Snapp undertook representation in a personal injury/wrongful death lawsuit. He associated with another lawyer to assist in the case; however, he did not tell his client or the other lawyer of his suspension. After the case had settled, Mr. Snapp misappropriated \$50,000.00 from his client and led co-counsel to believe that his client had been paid in full. Several months later, his co-counsel discovered that Mr. Snapp was suspended and had not paid their client the full amount owed. After he was confronted, Mr. Snapp re-paid the funds and disgorged the fees he took for the representation.

A Hearing Panel held that Mr. Snapp's ethical misconduct violates Rules of Professional Conduct 1.15 (safekeeping property and funds), 5.5 (unauthorized practice of law) and 8.4 (c) (misconduct).

Mr. Snapp must comply with the requirements of Tennessee Supreme Court Rule 9, Section 28 (2014) and Tennessee Supreme Court Rule 9, Section 30.4 (2014), regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement. The Supreme Court's Order is effective immediately.

PAUL JAMES SPRINGER, SR., BPR #21267
SHELBY COUNTY

Effective July 3, 2016, Paul James Springer, Sr., of Memphis, Tennessee, is suspended from the practice of law by Order of the Tennessee Supreme Court for a period of two (2) years and sixty (60) days. Mr. Springer must serve a minimum active suspension of sixty (60) days, and the suspension shall continue indefinitely until Mr. Springer pays restitution in the amount of \$10,000, engages a practice monitor for the duration of his probation, completes six (6) additional hours of continuing education, and obtains professional liability insurance in coverage amounts of \$100,000/\$200,000. Mr. Springer must pay costs of the disciplinary matter to the Board and to the Court and must comply with the requirements of Tennessee Supreme Court Rule 9, Sections 18 (2006) and 30 (2014), regarding the obligations and responsibilities of suspended attorneys. Mr. Springer may not return to the active practice of law until an order of reinstatement has been entered by the Supreme Court.

On November 2, 2012, the Board of Professional Responsibility filed a Petition for Discipline against Mr. Springer based upon two (2) complaints of ethical misconduct. In the first matter, Mr. Springer used his trust account over a period of approximately five (5) years to pay personal and business expenses. In the second matter, Mr. Springer settled a personal injury action and retained \$100,000 to pay medical and

SUSPENSIONS (continued)

judgment liens for his client, litigation expenses and his attorney fee. Mr. Springer was notified by the client she continued to receive medical bills, but Mr. Springer took no action to pay the bills. After receiving more bills, the client demanded an accounting to which Mr. Springer failed to comply. Thereafter, the client demanded certain settlement funds and notified Mr. Springer she would assume responsibility for the outstanding medical bills and judgment. Mr. Springer refused to release settlement funds to the client and never satisfied the outstanding medical bills or judgment.

Mr. Springer's conduct violated Rules of Professional Conduct (RPC) 1.3 (diligence); 1.4 (communication); 1.5(c) (fees); 1.15(a), (b), (d) and (e) (safekeeping property and funds); 8.1(b) (disciplinary matters) and 8.4(a) and (d) (misconduct).

JOANNA TEMPLE, BPR #26096 SAINT SIMONS ISLAND, GEORGIA

On April 28, 2016, the Tennessee Supreme Court suspended Joanna Temple from the practice of law until further orders of the Court pursuant to Tennessee Supreme Court Rule 9, Section 22.3. Ms. Temple was suspended based upon her guilty plea to a serious crime involving improper conduct as an attorney; i.e., Attempted Criminal Usury (Second Degree).

The Supreme Court ordered the Board of Professional Responsibility to institute a formal proceeding to determine the extent of final discipline to be imposed as a result of Ms. Temple's guilty plea.

Ms. Temple must comply with Tennessee Supreme Court Rule 9, Section 28 regarding the obligations and responsibilities of suspended attorneys.

RE: JOANNA TEMPLE, BPR #26096 SAINT SIMONS ISLAND, GEORGIA

On June 27, 2016, the Tennessee Supreme Court suspended Joanna Temple from the practice of law for four (4) years, retroactive to the date of her summary suspension on April 28, 2016. Ms. Temple is also ordered to pay the costs of this proceeding to the Board of Professional Responsibility.

Ms. Temple is licensed in Georgia and Tennessee. On December 17, 2015, Ms. Temple pleaded guilty in New York to Attempted Criminal Usury, 2nd Degree, a misdemeanor. She was placed on conditional discharge for one year. Ms. Temple served as lead counsel for several payday lending companies. She has admitted that she, along with others, instructed and assisted the companies to violate state lending laws, including the New York criminal usury statutes.

Ms. Temple must comply with Tennessee Supreme Court Rule 9, Sections 28 and 30 regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement.

SUSPENSIONS (continued)

MICHAEL LEE WEST, BPR #1868 ***HAMILTON COUNTY***

Effective August 17, 2016, Michael Lee West, of Hamilton County, Tennessee, was suspended for one (1) year by the Tennessee Supreme Court, pursuant to Tennessee Supreme Court Rule 9, Section 12.2 and ordered to pay the Board's costs.

On March 30, 2016, a Petition for Discipline was filed against Mr. West based upon one (1) complaint of misconduct. Mr. West, while suspended from the practice of law, failed to take appropriate action to withdraw as attorney of record from a pending case in General Sessions Court and failed to notify his client of the suspension from the practice of law. As a consequence, the notice of trial was sent to Mr. West who failed to take appropriate action or inform his client of the trial date. A default judgment was entered against the client. After learning of the final judgment, Mr. West accepted personal responsibility and reached an agreement with opposing counsel to make monthly payments on the judgment. Eventually, the client retained new counsel who successfully set aside the judgment.

Mr. West executed a Conditional Guilty Plea admitting his conduct violated Rules of Professional Conduct 1.4 (communication); 1.16 (declining or terminating representation); 5.5 (unauthorized practice of law) and 8.4(g) (misconduct).

Mr. West must comply with Tennessee Supreme Court Rule 9, Sections 28 and 30.4 (2014) regarding the obligations and responsibilities of suspended attorneys and the procedure for reinstatement. Mr. West must pay the Board's costs and expenses prior to reinstatement to the practice of law.

TEMPORARY SUSPENSIONS

CHARLES MICHAEL CLIFFORD, BPR #1544 ***BLOUNT COUNTY***

On March 9, 2016, the Supreme Court of Tennessee temporarily suspended Charles Michael Clifford from the practice of law upon finding that Mr. Clifford failed to respond to the Board regarding a complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate temporary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to the Board regarding a complaint of misconduct.

Mr. Clifford is immediately precluded from accepting any new cases, and he must cease representing existing clients by April 8, 2016. After April 8, 2016, Mr. Clifford shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Clifford must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending his law license. Mr. Clifford is required to deliver to all clients any papers or property to which they are entitled.

TEMPORARY SUSPENSIONS (continued)

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Clifford may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

***TERENCE JOSEPH FAIRFAX, BPR #20729
AKRON, OHIO***

On August 26, 2016, the Supreme Court of Tennessee temporarily suspended Tennessee licensed attorney, Terence Joseph Fairfax from the practice of law upon finding that Mr. Fairfax has misappropriated funds and poses a substantial threat of harm to the public. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases where it has been demonstrated that the attorney has misappropriated funds and poses a threat of substantial harm to the public.

Effective August 26, 2016, Mr. Fairfax is precluded from accepting any new cases and he must cease representing existing clients by September 25, 2016. After September 25, 2016, Mr. Fairfax shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Fairfax must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending his law license. Section 28 of Supreme Court Rule 9 requires Mr. Fairfax to deliver to all clients any papers or property to which they are entitled.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Fairfax may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

***TERRY SHANE HENSLEY, BPR #24990
HAMILTON COUNTY***

On August 16, 2016, the Supreme Court of Tennessee temporarily suspended Terry Shane Hensley from the practice of law upon finding that Mr. Hensley has failed to respond to the Board regarding a complaint of misconduct. Section 12.3 of Supreme Court Rule 9 provides for the immediate summary suspension of an attorney's license to practice law in cases of an attorney's failure to respond to the Board regarding a complaint of misconduct.

Effective August 16, 2016, Mr. Hensley is precluded from accepting any new cases and he must cease representing existing clients by September 15, 2016. After September 15, 2016, Mr. Hensley shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

TEMPORARY SUSPENSIONS (continued)

Mr. Hensley must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending his law license. Section 28 of Supreme Court Rule 9 requires Mr. Hensley to deliver to all clients any papers or property to which they are entitled.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Hensley may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

WENDAL DOUGLAS JACKSON, BPR #1370 ***SULLIVAN COUNTY***

On June 17, 2016, the Supreme Court of Tennessee temporarily suspended Wendal Douglas Jackson from the practice of law upon finding that Mr. Jackson poses a substantial threat of harm to the public, pursuant to Tennessee Supreme Court Rule 9, Section 12.3.

Mr. Jackson is immediately precluded from accepting any new cases and from representing existing clients upon entry of the Order dated June 17, 2016. After June 17, 2016, Mr. Jackson shall not use any indicia of lawyer, legal assistant, or law clerk nor maintain a presence where the practice of law is conducted.

Mr. Jackson must notify all clients being represented in pending matters, as well as co-counsel and opposing counsel of the Supreme Court's Order suspending his law license. Mr. Jackson is required to deliver to all clients any papers or property to which they are entitled.

This suspension remains in effect until dissolution or modification by the Supreme Court. Mr. Jackson may for good cause request dissolution or modification of the suspension by petition to the Supreme Court.

PUBLIC CENSURES

JOEL ROBERT BELLIS, BPR #27750 ***MAURY COUNTY***

On April 5, 2016, Joel Robert Bellis, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Bellis failed to secure a written agreement with his client to establish a non-refundable fee, failed to deposit the fee into his trust account, and failed to promptly refund unearned fees and costs to his client after his representation was terminated.

By these acts, Joel Robert Bellis has violated Rules of Professional Conduct 1.5 (fees), 1.15 (safekeeping property), and 1.16 (terminating representation) and is hereby Publicly Censured for these

PUBLIC CENSURES (continued)

violations. In addition, Mr. Bellis shall be required to refund \$3,100.00 in fees to his former client within one hundred eighty (180) days of issuance of this Public Censure.

THOMAS MARTIN BROWDER, JR., BPR #11424
SULLIVAN COUNTY

On July 12, 2016, Thomas Martin Browder, Jr., an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Browder presented oral argument to the Tennessee Court of Appeals after his law license had been administratively suspended. Mr. Browder's conduct caused the Court to strike his oral argument from the record. In another matter, Mr. Browder continued to represent a client in the same matter for which the client had sued Mr. Browder for legal malpractice.

By these acts, Thomas Martin Browder, Jr. has violated Rules of Professional Conduct 1.7 (conflict of interest), 5.5 (unauthorized practice of law), and 8.4(d) (misconduct) and he is hereby Publicly Censured for these violations.

YVETTE YOLANDA CAIN, BPR #17282
NASHVILLE

On May 31, 2016, Yvette Yolanda Cain, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Cain acted beyond the scope of her authority in the representation of a client, failed to communicate with the client, and took actions which had an adverse effect upon the client.

By these acts, Yvette Yolanda Cain has violated Rules of Professional Conduct 1.2 (scope of authority), 1.4 (communication), and 8.4(d) (misconduct) and is hereby Publicly Censured for these violations.

CLINTON CHADWELL CARTER, BPR #17719
ALABAMA

On April 15, 2016, Clinton Chadwell Carter, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Carter committed the unauthorized practice of law by representing a client in Tennessee after his license to practice law had been administratively suspended. Mr. Carter failed to comply with the filing requirements in a medical malpractice action he filed which was fatal to the case. Mr. Carter failed to inform his client of the dismissal of the case for a period of over six months.

PUBLIC CENSURES (continued)

By these acts, Clinton Chadwell Carter has violated Rules of Professional Conduct 1.1 (competence), 1.4 (communication), 3.1 (meritorious claims), 5.5 (unauthorized practice of law), and 8.4(a) and (d) (misconduct) and is hereby Publicly Censured for these violations

MARK E. CHAPMAN, BPR #15397
DAVIDSON COUNTY

On April 27, 2016, Mark E. Chapman, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Chapman was hired by a client to file a slip-and-fall case. After some work on the matter, Mr. Chapman failed to file a lawsuit within the applicable statutory period. Mr. Chapman realized his mistake a few weeks after the statute had run, and he informed the client of the mistake. The client suffered harm as a result of Mr. Chapman's actions because the potential defendant indicated the matter would have been compromised.

By these acts, Mr. Chapman has violated 1.1 (competence) and 1.3 (diligence) and is hereby Publicly Censured for this violation.

CATHLEEN GRADY CONLEY, BPR #4567
COFFEE COUNTY

On April 20, 2016, Cathleen Grady Conley, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

To obtain business, Ms. Conley's office staff reviewed bankruptcy court records and phoned creditors who had not yet filed a proof of claim. If the creditor expressed interest over the telephone, Ms. Conley's staff sent an email with a claim form and an agreement providing that Ms. Conley would receive one third of any money recovered from the debtor. The phone call and email did not explain that Ms. Conley would not be acting as an attorney or provide notice that the protections of the client-lawyer relationship did not exist. Ms. Conley was thereby subject to the Rules of Professional Conduct and violated the rules relating to the solicitation of potential clients.

By these acts, Ms. Conley violated Rules of Professional Conduct 5.7 (responsibilities regarding law-related services) and 7.3 (solicitation of potential clients) and is hereby Publicly Censured for these violations.

PUBLIC CENSURES (continued)

RICHARD DALE DARBY, BPR #28787
HAMBLLEN COUNTY

On June 17, 2016, Richard Dale Darby, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Darby modified an existing fee agreement from an hourly fee to a flat non-refundable fee without obtaining a written agreement signed by his client. Mr. Darby failed to deposit the unearned fee into his trust account and failed to promptly refund unearned fees after he terminated the representation. Mr. Darby also created a conflict of interest by suing his client prior to formally withdrawing from the representation.

By these acts, Richard Dale Darby has violated Rules of Professional Conduct 1.5 (fees), 1.7 (conflict of interest), 1.15 (safekeeping property), and 1.16(d) (terminating representation) and he is hereby Publicly Censured for these violations. As a condition of the Public Censure, Mr. Darby is required to reimburse \$4,025.95 in fees to his former client within 180 days.

CARRIE WATSON GASAWAY, BPR #18746
MONTGOMERY COUNTY

On April 13, 2016, Carrie Watson Gasaway, an attorney licensed to practice law in Tennessee, received a public censure from the Board of Professional Responsibility of the Tennessee Supreme Court. Within ninety (90) days, Ms. Gasaway shall pay restitution in the amount of \$250 to the first client, and pay restitution to the second client in the amount of \$3,500, and provide proof of such payment to Disciplinary Counsel.

Ms. Gasaway accepted a nonrefundable retainer from the first client with \$250 designated to be held in trust. At the conclusion of the representation, Ms. Gasaway provided no explanation for her use of the funds held in trust and did not refund the \$250. In the second matter, Ms. Gasaway accepted a \$3,500 fee from a client and did no work, and she failed to respond to requests for information from the client. Ms. Gasaway failed to respond to these disciplinary complaints.

By these acts, Ms. Gasaway has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.15 (safekeeping funds), 1.16 (terminating representation), 3.2 (expediting litigation), 8.1 (disciplinary matters) and 8.4 (prejudice to the administration of justice). Two clients suffered actual and potential harm as a result of Ms. Gasaway's actions.

ANGELA JOY HOPSON, BPR #22500
MADISON COUNTY

On April 14, 2016, Angela Joy Hopson, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

PUBLIC CENSURES (continued)

In September of 2015, Ms. Hopson's license was suspended for failure to pay the Professional Privilege Tax. On October 30, 2015, Ms. Hopson appeared in court representing a defendant in a criminal case. Ms. Hopson continued practicing law for two more weeks until a colleague drew her attention to the administrative suspension. Ms. Hopson's license was returned to active status on November 17, 2015.

By these acts, Angela Joy Hopson has violated Rule of Professional Conduct 5.5 (unauthorized practice of law) and is hereby Publicly Censured for this violation.

RICHARD KORSAKOV, BPR #994
HAMILTON COUNTY

On July 12, 2016, Richard Korsakov, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Korsakov failed to diligently represent a client in a divorce action and failed to adequately communicate with his client during the representation. Mr. Korsakov failed to appear in court for a scheduled hearing which resulted in an adverse ruling against his client.

By these acts, Richard Korsakov has violated Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), and 8.4(d) (misconduct) and he is hereby Publicly Censured for these violations.

JOHN HOLLIS McELHENY, BPR #28657
ALABAMA

On July 18, 2016, John Hollis McElheny, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. McElheny provided financial assistance to his client on two occasions prior to the resolution of the case and failed to safeguard a client settlement check by failing to deposit the check in his trust account.

By these acts, John Hollis McElheny has violated Rules of Professional Conduct 1.8(e) (conflict of interest) and 1.15 (safekeeping property) and he is hereby Publicly Censured for these violations.

JACK COLIN MORRIS, BPR #15855
MADISON COUNTY

On July 7, 2016, Jack Colin Morris, an attorney licensed to practice law in Tennessee, received a Public Censure from the Supreme Court of Tennessee.

The Board of Professional Responsibility filed a Petition for Discipline against Mr. Morris based upon one (1) complaint of misconduct involving a trust account. Mr. Morris improperly issued a trust

PUBLIC CENSURES (continued)

account check to opposing counsel prior to receiving good and sufficient funds from his client, thereby causing an overdraft of his attorney trust account.

Jack Colin Morris entered a Conditional Guilty Plea acknowledging his actions violated Rules of Professional Conduct 1.15 (safekeeping of property and funds) and 8.4(a) (misconduct).

JEFFREY JAMES MUELLER, BPR #17127
MADISON COUNTY

On July 18, 2016, Jeffrey James Mueller, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

In a civil proceeding, Mr. Mueller failed to lodge an order as directed by the Court. Mr. Mueller also failed to file an answer within the time period prescribed by the Court, which led to the filing of a motion for default. Mr. Mueller had a scheduling conflict when the motion for default was set to be heard, but failed to take reasonable steps to have the motion continued. The motion for default was granted after Mr. Mueller failed to appear or obtain a continuance. Mr. Mueller appealed the default judgment but the appeal was dismissed as frivolous due to Mr. Mueller's failure to cite to the administrative record in his briefs.

By these acts, Jeffrey James Mueller has violated Rules of Professional Conduct 1.1 (competence), RPC 1.3 (diligence), 3.4(c) (knowing disobedience of an obligation under rules of a tribunal), and 8.4(d) (conduct prejudicial to the administration of justice), and is hereby Publicly Censured for these violations.

DANA L. NERO, BPR #25042
DAVIDSON COUNTY

On July 26, 2016, Dana L. Nero, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Ms. Nero represented a client in two separate criminal cases. The prosecution made a plea offer of concurrent sentences of two years and six years. Ms. Nero erroneously believed that if her client pled guilty to a sentence of six years, he would be automatically released upon serving 30 percent of the sentence. She assured her client that because he had been incarcerated for 27 months, he would go home shortly after entering his pleas. In fact, a person serving a sentence of six years must be released by the parole board. Ms. Nero admits that she gave her client erroneous advice about when he would be released upon pleading guilty.

By these acts, Dana L. Nero has violated Rules of Professional Conduct 1.1 (competence) and 1.3 (diligence) and is hereby Publicly Censured for this violation.

PUBLIC CENSURES (continued)

HENRY ALLEN NOHSEY, BPR #8756
OBION COUNTY

On April 21, 2016, Henry Allen Nohsey, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Nohsey represented a client who owned real property as a tenant in common with a relative and wanted to purchase the relative's interest in the property. At the request of the client, Mr. Nohsey engaged in a strategy to convince the relative that Mr. Nohsey represented an unrelated third party who wanted to purchase the property from both the client and the relative, which was false. Mr. Nohsey's client assigned the relative's interest in the property, and then the client sold the property to a third party for \$26,000 more than the price to which Mr. Nohsey, on behalf of his client, agreed with the relative. The warranty deed transferred the property from the client and relative to the third party at the higher price. Mr. Nohsey did not inform the relative of the assignment.

By these acts, Henry Allen Nohsey, has violated Rules of Professional Conduct Rule 4.3 (dealing with an unrepresented party) and Rule 8.4(c) (conduct involving misrepresentation). Mr. Nohsey is hereby Publicly Censured for these violations.

LANCE WILLIAM PARR, BPR #24651
ALABAMA

On July 22, 2016, Lance William Parr, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court. As a condition of the Public Censure, Mr. Parr is required to reimburse \$600.00 in fees to his former client within 90 days.

Mr. Parr discontinued representation of a client due to his prior disbarment. Mr. Parr failed to provide the client file or promptly refund unearned fees to the former client. Mr. Parr also failed to provide a response to the disciplinary complaint against him.

By these acts, Lance William Parr has violated Rules of Professional Conduct 1.16(d) (terminating representation) and 8.1(b) (disciplinary matters) and he is hereby Publicly Censured for these violations.

JOHNNY QUITMAN RASBERRY, JR., BPR #19160
SHELBY COUNTY

On July 18, 2016, Johnny Quitman Rasberry, Jr., an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Rasberry was hired by a client in a divorce case and received an agreed marital dissolution agreement signed by both parties in June 2014. Mr. Rasberry failed to file the complaint for divorce until

PUBLIC CENSURES (continued)

February 2015, at which point the signed MDA was stale. The client filed a disciplinary complaint, and Mr. Raspberry failed to timely respond to the complaint. The client's divorce was eventually completed in February 2016.

By these acts, Mr. Raspberry is in violation of Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 3.2 (expediting litigation), 8.1 (disciplinary matters), and 8.4 (prejudice to the administration of justice) and is hereby publicly censured for this violation.

DONALD EDWIN SPURRELL, BPR #12810
WASHINGTON COUNTY

On July 12, 2016, Donald Edwin Spurrell, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

Mr. Spurrell failed to obtain a written agreement signed by his client in a contingent fee matter, collected an unreasonable fee, and failed to supervise a paralegal who commingled trust funds into Mr. Spurrell's operating account on several occasions.

By these acts, Donald Edwin Spurrell has violated Rules of Professional Conduct 1.5 (fees), 1.15 (safekeeping property), and 5.3 (responsibilities regarding non-lawyer assistants) and he is hereby Publicly Censured for these violations.

DANIEL WAYNE STARNES, BPR #26613
KNOX COUNTY

On July 26, 2016, Daniel Wayne Starnes, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

In August of 2015, Mr. Starnes' license to practice law was suspended for CLE noncompliance. While his license to practice law was suspended, Mr. Starnes made various court appearances, and continued to practice law by sending legal correspondence.

By these acts, Daniel Wayne Starnes, has violated Rule of Professional Conduct 5.5 (unauthorized practice of law) and is hereby Publicly Censured for this violation.

RONALD ANDRE STEWART, BPR #23042
DAVIDSON COUNTY

On July 18, 2016, Ronald Andre Stewart, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court.

PUBLIC CENSURES (continued)

Mr. Stewart unreasonably delayed in taking action requested by clients in two cases. In one of the two cases, Mr. Stewart also failed to respond to a motion to dismiss arising out of failure to comply with an order compelling written discovery. Mr. Stewart did not appear at the motion hearing, which led to the dismissal of two defendants with prejudice. Mr. Stewart filed a voluntary dismissal with regard to the remaining two defendants while another motion to dismiss was pending, also arising out of failure to furnish responses to written discovery. Mr. Stewart failed to notify his client of either dismissal.

By these acts, Ronald Andre Stewart has violated Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), and 1.4 (communication), and is hereby Publicly Censured for these violations.

WILLIAM PRESTON SUTHERLAND, BPR #2437
DAVIDSON COUNTY

On April 13, 2016, William Preston Sutherland, an attorney licensed to practice law in Tennessee, received a Public Censure from the Board of Professional Responsibility of the Tennessee Supreme Court. Within ninety (90) days, Mr. Sutherland shall pay restitution to the client for fees paid and funds borrowed in an amount of \$5,456.71, and provide proof of such payment to Disciplinary Counsel.

Mr. Sutherland's law license was suspended in 1997 and has never been reinstated. After the suspension of his license, Mr. Sutherland did investigative and legal work for one client and billed the client \$4,435.42 for the work, which the client paid. Mr. Sutherland also borrowed \$1,021.29 from the client for his personal expenses and failed to repay the loan.

By these acts, William Sutherland has violated Rules of Professional Conduct 5.5 (unauthorized practice of law) and 1.8 (conflict of interest, business transaction). Mr. Sutherland is hereby Publicly Censured for these violations.

Jeffery Lamont Warfield, BPR #19886
GUAM

On January 8, 2016, the Supreme Court of Tennessee entered an Order of Reciprocal Discipline publicly censuring Jeffery Lamont Warfield. Mr. Warfield, who is licensed to practice law in Tennessee but has been living and practicing law in Guam, was publicly reprimanded by Order from the Supreme Court of Guam entered September, 4, 2015, for diligence, competence and communication issues related to the representation of two (2) clients in criminal cases.

DISABILITY INACTIVE

***JOSEPH B. BROWN, JR., BPR #5211
SHELBY COUNTY***

By Order of the Tennessee Supreme Court entered June 24, 2016, the law license of Joseph P. Brown, Jr., was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Brown cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

***CHARLES PITTMAN COLE, JR., BPR #23243
WASHINGTON COUNTY***

By Order of the Tennessee Supreme Court entered July 22, 2016, the law license of Charles Pittman Cole, Jr., was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Cole cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

***MATTHEW JACK FITZHARRIS, BPR #32101
HAMILTON COUNTY***

By Order of the Tennessee Supreme Court entered August 23, 2016, the law license of Matthew Jack Fitzharris was transferred to disability inactive status for an indefinite period of time pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Fitzharris cannot practice law while on disability inactive status. Pursuant to Tennessee Supreme Court Rule 9, Section 28.1, the Order transferring Mr. Fitzharris to disability inactive status is effective upon entry. Mr. Fitzharris may petition for removal of disability inactive status pursuant to Tennessee Supreme Court Rule 9, Section 27.7.

***TIMOTHY DARNELL FLOWERS, BPR #19382
SHELBY COUNTY***

By Order of the Tennessee Supreme Court entered August 16, 2016, the law license of Timothy Darnell Flowers was transferred to disability inactive status for an indefinite period of time pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

DISABILITY INACTIVE (continued)

On August 1, 2013, Mr. Flowers' license to practice law was suspended by the Supreme Court of Tennessee for three years after a hearing panel determined Mr. Flowers had violated Rules of Professional Conduct. The Order transferring Mr. Flowers to disability inactive status does not affect his disciplinary suspension.

Pursuant to Tennessee Supreme Court Rule 9, Section 28.1, the Order transferring Mr. Flowers to disability inactive status is effective upon entry. Mr. Flowers may petition for removal of disability inactive status pursuant to Tenn. Supreme Court Rule 9, Section 27.7.

ROBERT WESLEY FREEMON, BPR #5297
WAYNE COUNTY

By Order of the Tennessee Supreme Court entered August 26, 2016, the law license of Robert Wesley Freemon was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Freemon cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

ROSS BRENT GRAY, BPR #20759
SEVIER COUNTY

By Order of the Tennessee Supreme Court entered July 11, 2016, the law license of Ross Brent Gray was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Ross cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

WENDAL DOUGLAS JACKSON, BPR #1370
SULLIVAN COUNTY

By Order of the Tennessee Supreme Court entered July 28, 2016, the law license of Wendal Douglas Jackson was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Jackson cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

DISABILITY INACTIVE (continued)

On June 17, 2016, the Supreme Court of Tennessee temporarily suspended Mr. Jackson from the practice of law upon finding that Mr. Jackson poses a substantial threat of harm to the public, pursuant to Tennessee Supreme Court Rule 9, Section 12.3. That suspension remains in effect.

DALE M. QUILLEN, BPR #2267
DAVIDSON COUNTY

By Order of the Tennessee Supreme Court entered July 27, 2016, the law license of Dale M. Quillen was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

TODD A. SHELTON, BPR #23884
GREENE COUNTY

By Order of the Tennessee Supreme Court entered May 31, 2016, the law license of Todd A. Shelton was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Shelton cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

PHILLIPS MEREDITH SMALLING, BPR #12251
PICKETT COUNTY

By Order of the Tennessee Supreme Court entered August 9, 2016, the law license of Phillips Meredith Smalling was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Smalling cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

KATHERINE EVETT SMITH, BPR #23028
SHELBY COUNTY

By Order of the Tennessee Supreme Court entered August 16, 2016, the law license of Katherine Evett Smith was transferred to disability inactive status pursuant to Section 27.4 of Tennessee Supreme Court Rule 9.

DISABILITY INACTIVE (continued)

Ms. Smith cannot practice law while on disability inactive status. She may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and she is fit to resume the practice of law.

On June 24, 2016, the Supreme Court of Tennessee temporarily suspended Katherine Evett Smith from the practice of law upon finding that Ms. Smith failed to respond to the Board regarding a complaint of misconduct. That suspension remains in effect.

NOEL F. STAHL, BPR #5695
DAVIDSON COUNTY

By Order of the Tennessee Supreme Court entered April 27, 2016, the law license of Noel F. Stahl was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Stahl cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

DOUGLAS EDWIN VICK, BPR #4159
DAVIDSON COUNTY

By Order of the Tennessee Supreme Court entered June 15, 2016, the law license of Douglas Edwin Vick was transferred to disability inactive status pursuant to Section 27.3 of Tennessee Supreme Court Rule 9.

Mr. Vick cannot practice law while on disability inactive status. He may return to the practice of law after reinstatement by the Tennessee Supreme Court upon showing of clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

REINSTATEMENTS

ANDREWNETTA MELISSA BOYD, BPR #25894
SHELBY COUNTY

On April 6, 2016, the Supreme Court of Tennessee reinstated Andrewnetta Melissa Boyd to the practice of law. Ms. Boyd had been suspended by the Supreme Court of Tennessee on December 21, 2015, for a period of thirty (30) days. Ms. Boyd filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c) (2014). The Board found that the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

REINSTATEMENTS (continued)

JOSEPH PAUL CALANDRIELLO, BPR #18349
DAVIDSON COUNTY

On July 8, 2016, the Supreme Court of Tennessee reinstated Joseph Paul Calandriello to the practice of law. Mr. Calandriello had been suspended by the Supreme Court of Tennessee on April 1, 2015, for a period of three (3) years, consisting of eleven (11) months and twenty-nine (29) days served as active suspension, and the remainder to be served on probation. Mr. Calandriello filed a Petition for Reinstatement on April 1, 2016, pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c) (2014). The Board of Professional Responsibility found that the Petition was satisfactory and submitted an Order of Reinstatement to the Court.

LINDA KAYE KENDALL GARNER, BPR #13573
SHELBY COUNTY

Effective August 9, 2016, the Supreme Court of Tennessee reinstated Linda Kaye Kendall Garner to the active practice of law. Ms. Garner was suspended for one (1) year by the Supreme Court of Tennessee on June 15, 2016, and required to serve an active suspension of thirty (30) days. Ms. Garner filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(c). The Board found the Petition satisfactory and submitted an Order of Reinstatement to the Court. Ms. Garner will serve the remainder of her suspension on probation.

WILLIAM E. GIBSON, BPR #12636
PUTNAM COUNTY

On March 24, 2016, the Supreme Court of Tennessee reinstated William E. Gibson to the practice of law effective immediately. Mr. Gibson had been disbarred by the Supreme Court of Tennessee on March 20, 2009. Mr. Gibson filed a Petition for Reinstatement to the practice of law pursuant to Tennessee Supreme Court Rule 9, Section 30.4(d) (2014).

A Hearing Panel found that Mr. Gibson complied with the terms and conditions of his disbarment, and further found that he had demonstrated the moral qualifications, competency and learning in the law required for the practice of law, and that his resumption of the practice of law will not be detrimental to the integrity or standing of the bar or administration of justice, or subversive to the public interest. Based upon the Hearing Panel's recommendation, the Supreme Court reinstated Mr. Gibson's license to practice law. As conditions of his reinstatement, Mr. Gibson must have a practice monitor, continue counseling and attend the Tennessee Law Institute Annual Review, all for five years.

Mr. Gibson must pay the costs of the reinstatement proceeding.