

IN DISCIPLINARY DISTRICT III
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE

IN RE: James W. Clements, III, BPR NO. 13191
Respondent, an attorney licensed
to practice law in Tennessee
(Hamilton County)

FILE NO. 34922-3-AW

PUBLIC CENSURE

The above complaint was filed against James W. Clements, III, an attorney licensed to practice law in Tennessee, alleging certain acts of misconduct. Pursuant to Supreme Court Rule 9, the Board of Professional Responsibility considered these matters at its meeting on September 21, 2012.

Complainant met with Respondent in April of 2009 to discuss a possible claim against a nursing home for neglect of Complainant's mother in July of 2008. Respondent received medical records from Complainant and represented he would forward the medical records to experts in Georgia for review and contact Complainant as soon as he received the expert's opinion. Although Complainant called Respondent regularly to check on the status of the potential case, he never communicated directly with Respondent until October of 2009. At the October 2009 meeting, Respondent should have informed Complainant that the statute of limitations had run. Instead, Respondent returned the original records to Complainant and re-affirmed he had provided the medical records to experts in Atlanta, Georgia and would contact Complainant when he received the expert's opinion. On December 7, 2011, Complainant spoke with Respondent's assistant who informed Complainant that the expert's opinion had been received

recently, the case had no merit and the statute of limitations had run on the potential claim.

Respondent failed to take reasonable steps to have the medical record promptly reviewed by the appropriate expert; failed to take reasonable steps to monitor the expert's review; failed to provide Complainant with material information regarding the statute of limitations; failed to reasonably and timely respond to Complainant's phone calls and withheld material information from Complainant over a two (2) year period of time.

By the aforementioned acts, James W. Clements, III violated Rules of Professional Conduct 1.1 (competence), 1.3 (diligence), 1.4 (communication) and 8.4(c) (misconduct) and is hereby Publicly Censured for these violations.

FOR THE BOARD OF
~~PROFESSIONAL RESPONSIBILITY~~



Lela Hollabaugh, Chair

November 5, 2012
Date