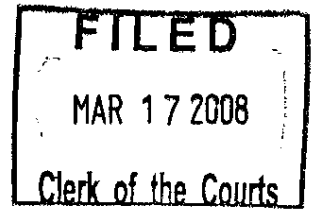


IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE



**IN RE: EMMA L. COLE, BPR NO. 12603**  
AN ATTORNEY LICENSED TO PRACTICE LAW IN TENNESSEE  
(SHELBY COUNTY)

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BOPR No. 2006-1630-9-JJ  
M2008-00569-SC-BPO-BP

**ORDER TRANSFERRING RESPONDENT  
TO DISABILITY INACTIVE STATUS**

This matter is before the Court upon a Petition for Discipline filed by the Board of Professional Responsibility ("Board") against Respondent, Emma L. Cole, on September 13, 2006; upon the Findings and Judgment of the Hearing Panel; and upon the entire record in this cause.

Pursuant to Rule 9, § 8 of the Rules of the Supreme Court, the Findings and Judgment of the Hearing Panel was entered on August 13, 2007, finding that the Respondent should be suspended for one year. A copy of the Findings and Judgment of the Hearing Panel is attached hereto as Exhibit A and incorporated herein.

Prior to the final adjudication of the Petition, Disciplinary Counsel and the Hearing Panel received sufficient notice that pursuant to Rule 9, § 21.3 of the Rules of the Supreme Court the Respondent contends that she is suffering from a disability by reason of a physical or mental infirmity or illness which makes it impossible for the Respondent to respond to or defend against the complaint filed against her.

Upon review of the record pursuant to Rule 9, § 21.3 of the Rules of the Supreme Court, the Court finds that Respondent is incapacitated from responding to or defending against the Complaint and should be transferred to disability inactive status. As a result, the Court does not adopt the Findings and Judgment of the Hearing Panel.

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED that:

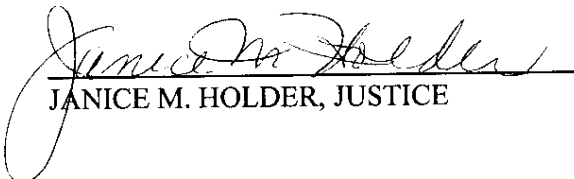
1. Pursuant to Rule 9, § 21.3 of the Rules of the Supreme Court, Respondent is hereby transferred to disability inactive status for an indefinite period and until further order of this Court;

2. Pursuant to Rule 9, § 25.2 of the Rules of the Supreme Court, this Order shall become a public record upon filing; however, all other documents relating to Respondent's transfer to disability inactive status shall not become public records and shall be kept confidential;

3. The Board shall pay the costs in this matter in the amount of \$314.00 and, in addition, shall pay the Clerk of this Court the costs incurred herein, for all of which execution shall issue, if necessary;

4. The Board is directed to cause notice of this transfer to disability inactive status to be published as required by Rule 9, §§ 18.10 and 21.4 of the Rules of the Supreme Court.

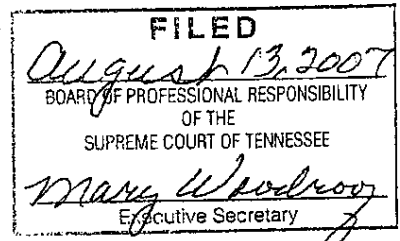
**FOR THE COURT:**

  
\_\_\_\_\_  
JANICE M. HOLDER, JUSTICE

**EXHIBIT A**

**TO**

**ORDER TRANSFERRING RESPONDENT TO DISABILITY INACTIVE STATUS**



**IN DISCIPLINARY DISTRICT IX  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE**

**IN RE:       EMMA L. COLE, BOPR #12603  
Respondent, An Attorney Licensed to  
Practice Law in Tennessee  
(Shelby County)**

**DOCKET NO. 2006-1630-9-JJ**

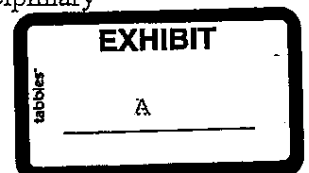
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**FINDINGS AND JUDGMENT OF THE HEARING PANEL**

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This proceeding came on to be heard on July 25, 2007, before two out of three district committee members which comprise this panel, all duly appointed by the Tennessee Supreme Court, upon a Petition for Discipline filed by the Board of Professional Responsibility ("Board"); on September 13, 2006; upon the Board's Motion for Default Judgment and to Set, filed December 29, 2006; upon the Panel's Order to Show Cause filed on March 27, 2006, and the record as a whole. From all of which, the hearing panel finds as follows:

1.       The respondent, Emma L. Cole, was admitted to the Tennessee Bar in 1987, and has practiced law primarily in Memphis, Tennessee between 1987 and the present.
2.       On October 3, 2005, respondent was administratively suspended from the practice of law by order of the Tennessee Supreme Court for failing to obtain required continuing legal education. Respondent's law license was not reinstated from this October, 2005 CLE suspension order until the Tennessee Supreme Court's March 22, 2006 order lifting this suspension.
3.       Between February and April of 2006, the Board received disciplinary



complaints against respondent from Felisa N. Cox, Esq., Tanya Hollimon Sims, and Elizabeth C. Driver, Esq., and these complaints were designated File Nos. 28946-9-JJ, 28950-9-JJ and 29072-9-JJ, respectively. In these complaints, it was alleged that respondent engaged in the practice of law in Tennessee between October, 2005 and March of 2006, without disclosing to the complainants her suspension from the practice during this period. Ms. Cox and Ms. Driver are licensed attorneys in Tennessee who represented adverse parties to respondent's clients in Circuit Court matters between 2005 and 2006. Ms. Sims was a client who respondent represented in a US District Court matter in 2005.

4. On September 13, 2006, the Board filed a Petition for Discipline against the respondent, incorporating the three above complaint files. Respondent was served with a copy of this petition for discipline by Certified Mail, Return Receipt Requested, on September 15, 2006.

5. Pursuant to Tenn. R. Sup. Ct. 9, §8.2, the respondent is granted twenty (20) days to file her Answer after service of the Petition against her unless the time period is extended by the Board Chair.

6. On December 18, 2006, the Hearing Panel filed and served an Order Setting a Mandatory Prehearing Conference in this case for January 16, 2007.

7. As of December 29, 2006, the respondent had not filed an Answer to the Petition for Discipline, and had not filed any request for an extension of time, and on this same date, the Board filed a Motion for Default Judgment and to Set. Respondent was served with a copy of the Board's Motion for Default by Certified Mail, Return Receipt Requested on January 3, 2007.

8. At the January 16, 2007 prehearing conference, the respondent appeared and participated and stated that she considered herself disabled from the practice of law, and/or that she

was incapable of defending against the disciplinary complaint. Accordingly, the Panel granted the respondent a fourteen (14) day period in order to submit medical evidence from her medical providers to the Board regarding her conditions, and the extent to which she was deemed incapable of practicing law. The Panel did not consider the Board's Motion for Default at the January 16, 2007 conference.

9. On January 26, 2007, the Board received correspondence from respondent's medical providers (with a copy to the Panel) and on February 5, 2007, Disciplinary Counsel sent correspondence to said providers requesting a specific answer as to whether respondent was considered disabled from the practice of law pursuant to Tenn. R. Sup. Ct. 9, §21, or whether she was capable of responding to or defending against the Petition for Discipline.

10. On February 6, 2007, Disciplinary Counsel for the Board sent correspondence to respondent requesting that she send correspondence to the Board specifically requesting that her law license be transferred to disability inactive status if that was her desire.

11. As of February 28, 2007, the Board had received nothing further in writing from respondent or from her medical providers, as requested, and on this date the Board requested a further prehearing conference to consider the question of whether respondent's condition met the definition of disability inactive under Tennessee Supreme Court Rules, or whether the Board's Motion for Default would be considered.

12. The Panel set a second prehearing conference by telephone in this matter for March 19, 2007 at 9:00am, and respondent did not appear. At the conclusion of this March 9, 2007 conference, this Panel decided that respondent would be given a final opportunity to either submit a written request that her law license be transferred to disability inactive status, or to show cause why

the Board's Motion for Default should not be granted for failure to respond, no later than April 9, 2007. The Panel entered a Show Cause Order to that effect on March 27, 2007.

13. Neither the Panel nor the Board have heard from or received anything further from respondent relative to the question of whether she desired a transfer to disability inactive status, nor has the Panel or Board received anything in writing from respondent in response to the Panel's March 27, 2007 Show Cause Order.

14. On July 17, 2007, the Panel issued a notice of final hearing by conference call, setting the final hearing in this matter for July 25, 2007 at 2:00cdt., and providing call-in instructions. The Board Executive Secretary forwarded a copy of this notice to the Panel, to Disciplinary Counsel and to the respondent at her last-known office and residential address, by Federal Express Priority Delivery. The respondent did not appear at this July 25, 2007 final hearing.

15. At the July 25, 2007 final hearing, the Panel granted the Board's Motion for Default Judgment, and pursuant to Tenn. R. Sup. Ct. 9, §8.2, the factual averments in the Petition for Discipline are deemed admitted.

16. The respondent violated RPCs 1.4(a)(b), 1.16(a)(1), 5.5(a), 8.1(b) and 8.4(a)(c)(d) due to her actions as set forth in the Petition for Discipline.

17. The following aggravating circumstances justify an increase in the degree of discipline to be imposed herein under *ABA Standard 9.22*:

- a. A pattern of misconduct;
- b. A refusal to acknowledge the wrongful nature of her conduct;
- c. Multiple offenses; and
- d. Substantial Experience in the practice of law.

18. Respondent's absence of a prior disciplinary record is a mitigating circumstance under *ABA Standard 9.32*. However, this does not outweigh the aforementioned

aggravating circumstances.

19. Respondent's violations of the aforementioned Rules of Professional Conduct warrant her suspension from the practice of law for one (1) year pursuant to Tenn. R. Sup. Ct 9, §4.2. Respondent shall be assessed the costs of these proceedings pursuant to Tenn. R. Sup. Ct. 9, §24.3.

**IT IS THEREFORE, ORDERED, ADJUDGED and DECREED** as follows:

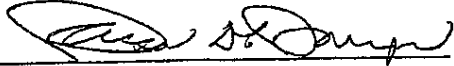
- A. That Emma L. Cole be and is hereby suspended from the practice of law in Tennessee for one (1) year;
- B. That the one (1) year suspension shall become effective ten (10) days after the filing of any Tennessee Supreme Court's Order incorporating this Judgment;
- C. That Emma L. Cole shall comply with the requirements of Tenn. R. Sup. Ct. 9, §19 should she seek reinstatement of her law license, and that she may not resume practice until reinstated by order of the Tennessee Supreme Court;
- D. That Emma L. Cole shall comply in all respects with Rule 9, Rules of the Supreme Court of Tennessee and specifically with Section 18 of said Rule regarding the obligations and responsibilities of suspended attorneys;
- E. That Emma L. Cole shall reimburse and pay to the Board of Professional Responsibility the costs and expenses of this proceeding.

ENTERED this 10<sup>th</sup> day of August, 2007.

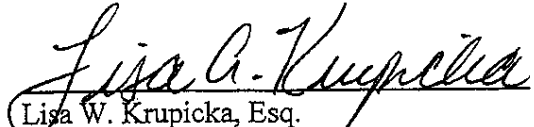
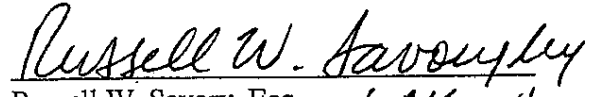


**THE HEARING PANEL:**

**APPROVED FOR ENTRY:**

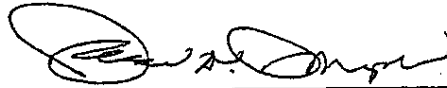


Jesse D. Joseph, BOPR # 10509  
Disciplinary Counsel  
1101 Kermit Dr., Suite 730  
Nashville, TN 37217  
615/361-7500

  
Lisa W. Krupicka, Esq.  
Panel Chair  
Russell W. Savory, Esq.  
Panel Member  
*WAK w/  
permission*

**CERTIFICATE OF SERVICE**

I hereby certify I have mailed a copy of this proposed Findings and Judgment of the Hearing Panel to respondent Emma L. Cole, Esq., 4023 McWeeny Ave., Memphis, TN 38103, on this the 31<sup>st</sup> day of July, 2007.



Jesse D. Joseph