

FILED

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

2014 APR 14 AM 11:26
BOARD OF PROFESSIONAL
RESPONSIBILITY

IN RE: WILLIAM CALDWELL HANCOCK,
BPR No. 005312, Mr. Hancock
An Attorney Licensed to Practice
Law in Tennessee
(Davidson County)

DOCKET NO. 2013-2216-S-KH *Rel* EXEC. SECRET

MEMORANDUM OPINION AND ORDER

The Board of Professional Responsibility's (the "Board") Petition For Discipline (the "Petition"), filed on May 9, 2013, was heard by the duly appointed Hearing Panel (the "Panel") on February 25 and 26, 2014. After the Board had completed the presentation of the Board's evidence, the Mr. Hancock moved, pursuant to Rule 41.02 of the Tennessee Rules of Civil Procedure, for the involuntary dismissal of the Petition. For the reasons stated in a separate Memorandum Opinion, Mr. Hancock's Motion was GRANTED IN PART and DENIED IN PART as follows: The charge in the Petition averring that the Mr. Hancock violated RPC 8.4 (a) and (d) premised upon violations of RPC 8.2 (a) was DISMISSED. The Panel reserved judgment regarding the remaining charge in the Petition subject to the close of all the evidence.

Mr. Hancock presented his evidence fully and the Parties were afforded the opportunity to submit post-hearing memoranda and proposed findings of fact and conclusions of law. Having considered the evidence and the entire record in this matter, for the reasons stated in this Memorandum Opinion, the Panel finds that Mr. Hancock violated RPC 8.4(a) and (d) premised upon violations of RPC 3.1 and 4.4(a) and orders that the Mr. Hancock be suspended from the practice of law for a period of one year, and that as a condition of reinstatement, he pay

restitution as follows: to Mr. Jeffrey Baker in the amount of \$20,000 and to Ms. Mitzi Blair in the amount of \$2,126.

PROCEDURAL BACKGROUND

On May 9, 2013, the Board filed the Petition alleging that Mr. Hancock committed two violations of the Rules of Professional Conduct. The alleged violations, all of which arise out of Mr. Hancock's representation of Tracy Lynn Rose, formerly Tracy Lynn Baker ("Ms. Rose") are factually related, but legally distinct. They are factually related in that Mr. Hancock undertook to represent Ms. Rose in post-divorce matters in the case of *Baker v Baker*, Case, No. 2008D-412, Sumner County Chancery Court and in a new civil action, *Rose, et al. v. Blair*, Case No. 2010-CV-1544, Circuit Court of Sumner County which asserted claims against Ms. Blair premised upon factual averments that arise out of the Baker post-divorce litigation. The alleged violations are legally distinct in that the Petition alleges that in connection with his representation of Ms. Rose in *Baker v. Baker*, Mr. Hancock violated RCP 8.4 (a) and (d) premised upon violations of RPC 8.2 (a), and that in connection with his representation of Ms. Rose in *Rose v. Blair*, the Board alleges Mr. Hancock violated RCP 8.4 (a) and (d) premised upon violations of RPC 3.1 and RPC 4.4(a).

With respect to the alleged violations of RPC 8.2(a), the Board accused Mr. Hancock of making false statements about the integrity of Judge Carol Solomon, the sitting judge of the 8th Circuit Court of the 20th Judicial District (Davidson County), with reckless disregard for the truth or falsity of those statements. With respect to the alleged violations of RPC 3.1 and 4.4(a), the Board accuses Mr. Hancock of bringing and continuing to prosecute a civil action against Misty Blair, the named defendant in *Rose, et al. v. Blair*, for which the Board contends there was no factual or legal basis, and of conducting the *Rose, et al. v. Blair* litigation in a manner that the

Board contends had no substantial purpose other than to embarrass, delay, or burden third persons, including specifically, Ms. Blair and Mr. Baker.

FACTUAL BACKGROUND

Mr. Hancock is a lawyer licensed to practice law in the State of Tennessee. He graduated from the University of Tennessee College of Law in 1977 and was licensed to practice later that same year. Between 1977 and 1986, Mr. Hancock practiced law in various law firms, first as an associate and later as a partner. From 1986 to the present, he has been in a solo practice.

In the fall of 2010, Mr. Hancock was approached by the father of Tracy Rose (Baker) at a sporting event in Chattanooga. He described to Mr. Hancock his perception of the legal predicament his daughter was in at the time in connection with certain post-divorce matters. Specifically, Ms. Rose was at that time serving a sentence of house arrest following a revocation of probation adjudged as a sentence for criminal contempt. She was being represented at that time by Rusty L. Moore, who had appealed the divorce to the Court of Appeals. Mr. Hancock told Ms. Rose's father that he would "look into" Ms. Rose's case and the father subsequently paid Mr. Hancock a retainer.

During the pendency of most of the *Baker v. Baker* divorce action, Mr. Hancock did not represent Ms. Rose. Nevertheless, the facts of the *Baker* divorce case bear upon Mr. Hancock's misconduct as alleged by the Board in this case, and a summary of those facts is necessary in order fully to understand the facts giving rise to the Petition.

Jeffrey Baker and Tracy (Baker) Rose were divorced in Sumner County, Tennessee Chancery Court in 2009 based upon irreconcilable differences. A final decree of divorce and parenting plan was entered by Chancellor Tom Gray. At the time of the original divorce, Ms. Rose was represented by Joseph Y. "Jay" Longmire. At all times, Mr. Baker was represented by

Scott Parsley. Shortly after the entry of the final decree and parenting plan, conflict arose between Mr. Baker and Ms. Rose which resulted in Mr. Baker filing a petition for post-divorce relief.

Before acting on that petition, Chancellor Gray recused himself from the case and all other circuit judges in the 18th Judicial District did the same. Following these recusals, *Baker v. Baker* was referred to the Presiding Judge of the 20th Judicial District, Davidson County, who assigned the case to Judge Carol Solomon.

The Board admits, and the evidence is uncontroverted, that: (i) Mr. Parsley represented Judge Solomon as a client in a divorce proceeding beginning sometime in 1997 or 1998, prior to her becoming a judge¹ which did not conclude until some date after 2001; (ii) Mr. Parsley represented Judge Solomon as a client in a property dispute in the time frame of 2000-2002; (iii) Mr. Parsley served as Judge Solomon's political campaign committee treasurer from 2006 until the summer of 2010; (iv) in December, 2003, Judge Solomon entered a standing recusal order in the office of the Circuit Clerk, peremptorily recusing herself from any matters in which Mr. Parsley represented a party; (v) this standing recusal order was in effect at the time the *Baker v. Baker* case was assigned to Judge Solomon in early 2010²; (vi) in approximately March, 2010, Judge Solomon denied a motion seeking her recusal from *Baker v. Baker* filed on behalf of Ms. Rose by her then counsel, Mr. Longmire; (vii) on April 16, 2010, Judge Solomon entered an Agreed Order in *Baker v. Baker* [Ex. 2] in which (a) Ms. Rose pleaded guilty to various acts of criminal contempt for which she was sentenced to a period of probation upon certain conditions, the violation of which subjected her to serve a period of 180 days confinement in the Sumner

¹ Judge Solomon first became a Circuit Judge on September 1, 1998.

² The record is not clear as to the date that Judge Solomon first acted as the presiding judge in *Baker v. Baker*, but it was at least several months prior to the entry of an order from the Tennessee Supreme Court in July 2010 confirming her assignment to the case.

County jail, (b) Mr. Baker's child support obligation was terminated, (c) the original parenting plan from the *Baker v. Baker* divorce was modified so as to make Mr. Baker the primary custodial parent with Ms. Rose being given certain visitation rights pursuant to a new parenting plan, and (d) Ms. Rose agreed to pay Mr. Parsley's attorney's fees in the amount of \$45,000 secured by a lien in favor of Mr. Parsley against certain real property belonging to Ms. Rose; (viii) in July, 2010, Mr. Parsley, still serving as the appointed treasurer of Judge Solomon's political campaign committee, signed and approved for filing a campaign finance disclosure report with the Davidson County Election Commission, after which Mr. Parsley requested to be relieved from his position as campaign committee treasurer; (ix) on August 19, 2010, Judge Solomon presided over an evidentiary hearing in *Baker v. Baker* upon Mr. Baker's Petition to Revoke Probation, following which, on August 24, 2010, Judge Solomon entered an order [Ex. 3] (a) finding that Ms. Rose had violated one or more conditions of probation imposed by the April 16, 2010 Agreed Order, (b) revoking the probation and (c) ordering Ms. Rose to serve a sentence of 180 days in jail, among other matters³; and (x) in September, 2010, Judge Solomon entered an order vacating the standing recusal order that had been of record since December, 2003.

Sometime thereafter, but prior to December 15, 2010, Mr. Hancock communicated with Ms. Rose's attorney, who at this time was Rusty L. Moore, and discussed with him strategies for obtaining relief from the conviction. Thereafter, Mr. Moore filed a motion in the Court of Appeals asking for relief from the August 24, 2010 order that revoked Ms. Rose's probation.

³ Ms. Rose was not placed in confinement, rather, she was essentially placed under house arrest with the use of an electronic monitoring device. A timely appeal was taken from this order and, on December 15, 2010, the Court of Appeals entered an order [Ex. 6, last page] granting, in part, a motion filed by Ms. Rose which sought modification of certain terms of the August 24, 2010 order. This order from the Court of Appeals is not relevant to the alleged violation of RPC 8.2(a), but is relevant to the alleged violations of RPC 3.1 and 4.4(a).

That motion was granted in part by the Court of Appeals on December 15, 2010. The Court of Appeals transmitted its order granting the motion to counsel for the parties. Mr. Moore informed his client, Ms. Rose, of this development, and, inasmuch as part of the relief granted by the Court of Appeals was her release from house arrest, Ms. Rose went to the Sumner County Sheriff's office to have her ankle bracelet removed. Mr. Moore and Mr. Parsley also spoke that afternoon at approximately 4:00 p.m. on the subject of resumption of Ms. Rose's visitation. Mr. Parsley, who at the time was involved in an office relocation, told Mr. Moore that he had not as yet informed his client, Mr. Baker, about the Court of Appeals Order, and proposed that Ms. Rose's visitation resume on Friday, December 17, 2010 when the children were released from school and that Ms. Rose's visitation period last from December 17 to noon on December 25 as provided for by the parenting plan then in effect.

Mr. Parsley then reached Mr. Baker by telephone. Mr. Parsley told Mr. Baker about the substance of the Court of Appeals order and told him that he and Mr. Moore had reached an agreement for the orderly resumption of visitation, which would resume on December 17 and thereafter conform to the schedule in the revised parenting plan under the terms of which, Mr. Baker is the primary custodial parent.

At this time of day on December 17, the Baker's middle child, ETB, was visiting her school classmate, who lived next door to the house where ETB lived with her father. ETB's classmate's mother is Mitzi Blair. Ms. Blair was at home with her daughter and ETB who were engaged in wrapping Christmas gifts for their school teachers.

Mitzi Blair and her daughter lived next door to Mr. Baker. Ms. Blair and Mr. Baker were involved in a relationship. The Baker children would frequently visit Ms. Blair's home. She would watch over the Baker children when Mr. Baker was not home, and the children would get

together at Ms. Blair's house to play and visit on a regular basis. Due to a prior incident with Ms. Rose, Ms. Blair had obtained a Protective Order which prevented Ms. Rose from coming within a certain distance from her home. Therefore, the maternal grandmother, Ms. Cole, would arrive to pick up the Baker children for visitation.

At approximately 5:00 p.m. Ms. Rose's mother, Mrs. Cole — known to the parties by the nickname "KK" — arrived by automobile at Mr. Baker's home intending to pick up ETB and her younger sister in order to take them to visit with their mother, Ms. Rose, who was waiting at a local restaurant. Mrs. Cole and Ms. Rose testified that they were not aware of the agreement reached between Mr. Moore and Mr. Parsley regarding the resumption of visitation. Apart from the testimony of Mr. Parsley, which the Panel finds to be credible, there is no admissible evidence regarding this agreement in the record.⁴ Ms. Rose and Mrs. Cole both testified that they were not told of any such agreement by Mr. Moore.

When Mr. Baker saw Mrs. Cole's automobile parked outside of his house, he telephoned Mr. Parsley who reiterated that he and Mr. Moore had agreed visitation would resume on Dec. 17. Mr. Baker walked outside of his house and spoke to Mrs. Cole. He told her that there would be no visitation that evening but that visits would resume on the 17th.

Mrs. Cole testified that she alternatively called both Mr. Hancock and Mr. Moore when she arrived at Mr. Baker's house and the children were not immediately ready to leave with her. At least one of her conversations with Mr. Hancock took place when she was speaking with Mr. Baker. Exhibit 34 is a collection of text messages exchanged between Ms. Blair and Mr. Baker

⁴ Mr. Moore was not called as a witness by either the Board or Mr. Hancock, nor did the parties take his deposition for use at the hearing. The Hearing Panel does not draw any adverse inference from the failure of either party to offer Mr. Moore's testimony. Nevertheless, the absence of such testimony leaves Mr. Parsley's testimony about having reached an agreement with Mr. Moore on the subject of visitation un rebutted. Even if that testimony had been rebutted, the evidence is uncontested that Mr. Parsley told Mr. Baker that such an agreement had been reached and Mr. Baker acted in keeping with his lawyer's advice.

starting at 5:03 p.m. and ending at 5:39 on December 15. Those messages establish conclusively that ETB was at the Blair residence with the knowledge and consent of the primary custodial parent, Mr. Baker, and that Ms. Blair had no knowledge regarding the order issued by the Court of Appeals earlier that day. Mrs. Cole drove away from Mr. Baker's residence at approximately 5:40 p.m.

The Baker's oldest daughter, who was 17 years old at the time, drove herself to the restaurant where Ms. Rose was waiting. They visited for a reasonable period of time after which, the daughter drove herself back to the Baker residence.

Ms. Cole prepared a written statement that evening and took it to Mr. Hancock. Ms. Rose and Mr. Hancock began discussing potential legal action against Ms. Blair.

The next morning, Mr. Baker saw a man in front of Ms. Blair's house taking pictures of her house. He was able to identify the man as Mr. Hancock.

At 10:03 a.m., December 16, 2010, Mr. Hancock sent an email to the "Tbalink-talk" email group entitled "Bad Girlfriend Interferes With Parenting Time" [Ex. 4]. In that email, Mr. Hancock writes as follows:

Ex-husband's girlfriend lives next door to him as the church lady would say "how convenient"

She knows the parenting plan provisions by rote

On two occasions she has conspired with XH to hide the children at her house or take them elsewhere before Mother's parenting time begins, leaving Mother frantic as to where they are and why they were not made available for timely pickup.

I know how to bust XH's chops.

How best to bust girlfriend's chops?

Contempt petition against both in divorce court

Sue her for interference and seek restraining order and damages? Divorce court or maybe circuit?

Hurry please

(emphasis added)

At 10:38 a.m. Mr. Hancock received a reply to his email questioning the premise in his email, saying: "I question whether it is a 'bad girlfriend' or an evil ex." To this message, Mr. Hancock replied at 11:08 a.m. as follows:

Actually, it is both acting in concert

Evil X is being aided and abetted in this by bad girlfriend

I want to isolate her by suing her in another court and making her hire a lawyer and defend herself. That should put a stop to her willingness to assist.

Whatcha [sic] think?

How about intentional interference with agreed parenting plan - i.e., contract? Treble damages and fees?

(emphasis added)

When examined under oath about Exhibit 4, Mr. Hancock testified that when he composed Exhibit 4 he was not referring to Ms. Blair specifically but was merely posing a hypothetical question premised upon both the events of the night before as well as another case from his experience. The Panel finds that Mr. Hancock's testimony was materially false and was made by him with the intent to mislead the Panel. His demeanor was consistent with a deceptive intent and his testimony about another case with similar facts did not withstand cross-examination by the Board or further inquiry from the Panel. This was not the only important factual matter about which Mr. Hancock's testimony was found to be lacking in credibility. Indeed, the Panel finds that Mr. Hancock was evasive, argumentative and deceptive in equal measure throughout the hearing.

Although he took time on December 16 to travel to Gallatin, Tennessee and take photographs of Mr. Baker and Ms. Blair's houses, and to write his emails to the Tbalink email group, Mr. Hancock did not take time to telephone Mr. Parsley. Had he done so, Mr. Hancock could have learned that Mr. Parsley told Mr. Baker that he had reached an agreement with Mr. Moore regarding the resumption of visitation. On December 17, 2010, Mr. Hancock accompanied Ms. Rose to the school where ETB and her younger sister were enrolled and was present when, shortly before noon, the children were picked up by Ms. Rose for the resumption of visitation.

At 4:08 p.m., December 17, 2010, approximately five hours after the two youngest children began a week-long visit with Ms. Rose, Mr. Hancock filed a civil action against Ms. Blair in the Circuit Court for Sumner County, Tennessee [Ex. 6] asserting claims for (i) false imprisonment of ETB; (ii) "abuse" of ETB; and (iii) outrageous and intentional infliction of severe emotional distress and seeking "not less than TEN MILLION DOLLARS" (capital letter in original) together with "such interim and permanent injunctive orders as are shown to be appropriate." The Complaint is couched in inflammatory language that goes far beyond a "short and plain statement of the claim showing that the pleader is entitled to relief." Rule 8.01, Tenn. R. Civ. P. For example, Ex. 4 refers to Ms. Blair as Mr. Baker's "paramour and doxy" [Para. 3] "his ever-present paramour and doxy" [Para. 5], "self-appointed surrogate mother" [Para. 13] and "would-be surrogate mother" [Para. 15, 16, 20]. Moreover, Ex. 4 makes factual averments that could not possibly have been the result of any reasonable inquiry in the 46 hours that elapsed between the time Mrs. Cole drove away from Mr. Baker's house and the filing of the Complaint. For example, paragraph 17 avers that both Ms. Rose and ETB "have suffered severe mental and

emotional distress." Paragraph 18 avers that both "have been so traumatized by these horrific acts of Ms. Blair that costly therapy will be necessary."

The Complaint also makes the following allegations and statements:

a) "... It is certain that Ms. Blair had actual knowledge of its existence and of the terms and provisions of the Parenting Agreement prior to 5:00 p.m. on December 15, 2010 and knew that KK. was there to pick up [ETB] for parenting time with the Mother." (Exhibit 6, para. 13, p. 3)

b) "... she knew that Mother had the contractual and court ordered right to resume parenting at 5:00 p.m. that day, and knew that both Mother and [ETB] would be severely emotionally traumatized if that reunion — after a four month absence — was interfered with by Ms. Blair's actions." (Exhibit 6, para. 14, p. 3)

c) "Acting intentionally, willfully, knowingly and in bad faith would be surrogate mother Blair either willfully persuaded Mr. Baker to interfere with Mother's contractually established parenting time with [ETB], or acted independently to willfully deprive Mother and [ETB]..." (Exhibit 6, para. 15, p. 4)

d) "Would-be surrogate mother Blair accomplished the foregoing wrongs to Mother and [ETB] by falsely imprisoning [ETB]..." (Exhibit 6, para. 16, p. 4)

e) "Both Mother and [ETB] have been so traumatized by these horrific acts of Ms. Blair that costly therapy will be necessary." (Exhibit 6, para. 18, p. 4)

In the Complaint, Mr. Hancock prayed for punitive damages of "nor (sic) less than 50% of the net worth of Ms. Blair but not less than TEN MILLION DOLLARS, or such other sum as the jury may determine to be appropriate to punish Ms. Blair's false imprisonment of [ETB], her abuse of the nine year old child, [ETB], her outrageous and intentional infliction of emotional

distress upon the plaintiffs and to deter her from engaging in abusive conduct toward Mother and [ETB] in the future.” (Exhibit 6, para. A, p. 5)

As of the time of filing the Complaint on December 17, 2010, ETB had not been evaluated by anyone to determine whether she was in need of therapy. Indeed, the record in this case contains no evidence that any such evaluation was ever done at any time during the ten months that the case was pending.

Compounding these unreasonable pleading practices, Mr. Hancock testified that he sought punitive damages because, while he did not know anything about Ms. Blair’s personal financial condition, he believed that her father was wealthy.

On or about December 18, 2010, a process server engaged by Mr. Hancock left a copy of Ex. 4 tucked into a garland decorating the front door of Ms. Blair’s house. Ms. Blair was understandably upset at receiving the Complaint. She contacted attorney Sue Dunning to help her respond. On January 6, 2011, Mr. Hancock mailed to Ms. Blair’s residence, a document entitled “First Amended Complaint For Damages And Injunctive Relief” [Ex. 8] which document repeats the claims of Ex. 4 in much the same specific language. Exhibit 8 was never filed.

On January 26, 2011, Mr. Hancock sent an email to Mr. Parsley and to Ms. Blair’s retained counsel, Sue Dunning, entitled “Global Resolution of All Pending Matters Relative to Rose v. Baker.” [Ex. 11] This document is not a settlement proposal at all. Rather, it makes allegations of legal, ethical and moral impropriety and is replete with gratuitous insults directed at Mr. Parsley, Mr. Baker, and Ms. Blair. Indeed, even Chancellor Gray and Judge Solomon do not escape the scope of Mr. Hancock’s intemperate scorn.

On February 15, 2011, Ms. Dunning, filed a motion for sanctions against Mr. Hancock. [Ex. 9] This motion was preceded by compliance with the notice procedures set out in Rule 11.03 (1) Tenn. R. Civ. P. and was accompanied by an affidavit of Mitzi Gregory Blair [Ex. B to Ex. 9] stating unequivocally that at the relevant time period on December 15, 2010, she had no knowledge of the Court of Appeals action on Ms. Rose's motion, that she had not prevented ETB from leaving her house on December 15 and that ETB did not attempt to leave the Blair residence until her father, Mr. Baker came over to get her just after 5:40 p.m. This affidavit was prepared after Mr. Hancock told Ms. Dunning that he would dismiss the lawsuit provided that Ms. Dunning furnished him with an affidavit from Ms. Blair that supported the facts about the events of December 15 that Ms. Dunning had told Mr. Hancock in a phone call. Notwithstanding the fact that Ms. Blair's affidavit complied with Mr. Hancock's request, he persisted with the litigation against Ms. Blair for eight more months.

Mr. Hancock took no action to mitigate the impact of his actions against Ms. Blair other than filing a pleading entitled First Amended Complaint [Ex. 10] on March 7, 2011. Although Ex. 10 deletes some of the offensive words used to describe Ms. Blair, it reiterated the meritless claims and continued the litigation.

Throughout the period of time from the filing of the original suit against Ms. Blair, the amended complaints, and various motions, Mr. Hancock's client, Ms. Rose, exercised her visitation rights without any interference by either Mr. Baker or Ms. Blair.

Eventually, and after all judges in the 18 Judicial District recused themselves, the *Rose v. Blair* case was assigned to Chancellor Randal Perkins in the 20th Judicial District (Davidson County).

At a hearing before Chancellor Perkins on June 3, 2011 on a motion to dismiss the *Rose v. Blair* suit, the Court asked Mr. Hancock why he was not seeking relief through the *Baker v. Baker* divorce proceeding. Although the Court denied the motion to dismiss, the Court stated the following: "The Court has lots of concerns about this lawsuit and this Complaint, and I'm urging counsel for the plaintiff to rethink some of the allegations and some of the claims in this case. But if you want to go forward, go forward. But prima facia (sic) tort allegations and stuff like that, you need to think that over and make sure you've got some law to support it...." (Exhibit 22)

On October 13, 2011, Mr. Hancock filed a Notice of Voluntary Dismissal Without Prejudice. (Exhibit 23)

In the Notice, Mr. Hancock states that the dismissal is "motivated solely to protect the child plaintiff from being potentially traumatized by having to sit for a deposition conducted by Defendant and her Counsel in the Sumner County Courthouse." (Exhibit 23)

In fact, just weeks prior to this Notice of Voluntary Dismissal, Mr. Hancock sought to depose the children. He asked Ms. Dunning to coordinate the depositions. (Exhibit 24)

An Order of Voluntary Dismissal Without Prejudice was entered on October 24, 2011. (Exhibit 25)

On January 26, 2012, the Court heard argument on Ms. Blair's request for sanctions under Rule 11 and for discretionary costs. (Exhibit 26) The Court granted the request for discretionary costs in the amount of \$484.00. The Court also awarded Rule 11 sanctions in the amount of \$1642.50, representing some of the time spent by Ms. Dunning on the case.

Rather than paying the sanctions imposed by the court, Mr. Hancock, on March 19, 2012, filed a motion to alter or amend the order imposing those sanctions. Mr. Hancock did not set that

motion for hearing, however, and as of the date of the disciplinary hearing it is still pending, and the sanctions remain unpaid. When asked about this by the Panel, Mr. Hancock attempted to excuse his conduct by claiming that he was not aware of any procedure for setting a motion for hearing in Davidson County for a case that was pending in Sumner County. The Panel again finds Mr. Hancock's testimony to be unworthy of belief. Indeed, he was acting as Ms. Rose's attorney-of-record in the post-divorce matters that were pending in Davidson County before Judge Soloman. The Hearing Panel finds that Mr. Hancock was in fact misusing the motion to alter or amend solely for the improper purpose of unreasonable delay in order to avoid paying the Rule 11 sanction.

The *Rose v. Blair* lawsuit had a devastating impact upon Mr. Baker and Ms. Blair's relationship. Mr. Baker was embarrassed that Ms. Blair had been forced to defend herself in a frivolous lawsuit prompted by the ongoing disagreements that he was having with Ms. Rose. Plaintiff's claims against Defendant were completely groundless, including especially the claim that the child ETB was falsely imprisoned and required extensive emotional therapy.

Mr. Baker voluntarily paid Ms. Blair's legal fees, which, according to his testimony, amounted to \$20,000. Both Mr. Baker and Ms. Blair testified that prior to the *Rose v. Blair* lawsuit their relationship was progressing towards foreseeable matrimony. Now, however, the relationship and any prospect of matrimony is over. This has also ended the close friendship between ETB and Ms. Blair's daughter.

Mr. Hancock has a history of adverse disciplinary actions. On January 6, 2011, Mr. Hancock was publicly censured for violations of Rules of Professional Conduct 1.3 (diligence), 1.4 (communication), 1.5 (fees) and 1.16 (terminating representation). On November 2, 2011 a hearing panel entered an order finding that Mr. Hancock had violated RPC 3.5(b) and (e),

8.2(a)(1), and 8.4(a) and (d) and ordered that Mr. Hancock's license to practice law be suspended for thirty (30) days. The hearing panel's order was affirmed by the Chancery Court for Davidson County, Tennessee, Ch. Donald P. Harris, Special Judge, by a judgment entered on October 25, 2012. Mr. Hancock took a timely appeal of this judgment to the Tennessee Supreme Court which is pending.

CONCLUSIONS OF LAW

Pursuant to Tenn. Sup. Ct. Rule 9, Section 1, any attorney admitted to practice law in Tennessee is subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Panel, and the Circuit and Chancery Courts.

Pursuant to Tenn. Sup. Ct. Rule 9, Section 3, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law.

Acts or omissions by an attorney which violate the Rules of Professional Conduct of the state of Tennessee shall constitute misconduct and be grounds for discipline.

Pursuant to Tenn. Sup. Ct. R., 9, § 8.2, the Board has proven by a preponderance of the evidence that Mr. Hancock violated Rules of Professional Conduct 3.1, Meritorious Claims and Contentions (2003 and 2011); 4.4(a), Respect for the Rights of Third Persons (2003 and 2011); and 8.4(a) and (d), Misconduct (2003 and 2011)2.

Mr. Hancock did not make sufficient inquiry prior to filing a lawsuit against Mitzi Blair. The allegations contained in the pleadings are conclusory statements without sufficient basis as to their veracity; further, it is clear that Mr. Hancock filed the lawsuit to coerce a certain result in the Baker litigation and to harass Ms. Blair. Ms. Blair provided supervision of the children on a

regular basis with Mr. Baker's permission. She was never a party to the Baker litigation and there was no reasonable basis upon which to assert that she had actual knowledge of the change in visitation or that she acted intentionally or in collusion with Mr. Baker to deprive Ms. Rose of visitation.

Mr. Hancock and Ms. Rose admit that they did not seek a mental health evaluation for [ETB] in the short timeframe between December 15th and December 17th, when the lawsuit was filed. Therefore, Mr. Hancock had no reasonable basis upon which to allege that costly therapy would be required as a result of Ms. Blair's actions. Mr. Hancock's insistence that it was proper to file such a lawsuit and then ascertain whether the claims were legitimate is further evidence that he failed to make a reasonable inquiry into the case. Although it is appropriate to file an action even when facts have not been fully substantiated or when a lawyer expects to develop proof during discovery, a lawyer "must act reasonably to inform themselves about the facts of their client's case and the law applicable to the case and then act reasonably in determining that they can make good faith arguments in support of their client's position.... The action is frivolous, however, if the lawyer is unable either to make a good faith argument on the merits of the action taken..." (RPC 3.1, Comment 2)

Mr. Hancock and Ms. Rose assert that such a lawsuit was necessary to protect Ms. Rose from further intervention by Ms. Blair. However, on the very day Mr. Hancock filed the lawsuit, and for months thereafter, the visitation proceeded as scheduled. Mr. Hancock nevertheless refused to abandon the frivolous suit.

Mr. Hancock rushed to "bust girlfriend's chops" by filing a ten million dollar lawsuit accusing Ms. Blair of false imprisonment and abuse of a minor child when, as the Circuit Court opined, it was obvious that Ms. Blair had permission from the custodial parent to babysit the

child. Mr. Hancock appeared in front of Ms. Blair's home the next morning taking photographs. He arranged to have a lawsuit left at her home even after visitation had resumed in which he referred to her as a "doxy." He tried to coerce Mr. Baker into a "global settlement" and attempted to connect Ms. Blair to the post-divorce negotiations. The lawsuit filed by Mr. Hancock against Ms. Blair had no substantial purpose other than to embarrass, delay, or burden a third person through coercion in violation of RPC 4.4(a).

Likewise, Mr. Hancock's persistence in pursuing the lawsuit adversely affected the administration of justice in violation of RPC 8.4(d). Mr. Hancock failed to withdraw the lawsuit after Ms. Dunning's safe harbor letter, after a Rule 11 Motion was filed, after being provided Ms. Blair's affidavit and after a court hearing in which the Court advised him to "re-think" the allegations. For eight months (8), Ms. Blair was forced to defend herself and the court was forced to use judicial time and expense to hear arguments related to this suit.

The Panel also finds that Mr. Hancock's abusive handling of the matter continues. He filed a motion to set aside the sanctions in 2012, yet for nearly two years he has failed to take any steps to set his motion for hearing. This is an obvious attempt to delay the order imposing sanctions from becoming final and unreasonably prolong the litigation.

Because the Panel has determined that Mr. Hancock violated the Rules of Professional Conduct, RPC 8.4(a) also applies.

After finding violations of the Rules of Professional Conduct, the Panel must consider the applicable sanction in light of the ABA Standards for Imposing Lawyer Discipline, pursuant to Tenn. Sup. Ct. R. 9, § 8.4.

The ABA Standards applicable in this case are as follows:

6.13 Reprimand is generally appropriate when a lawyer is negligent either in determining whether statements or documents are false or in taking remedial

action when material information is being withheld, and causes injury or potential injury to a party to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

6.22 Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or a party, or causes interference or potential interference with a legal proceeding.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to the client, the public, or the legal system.

The ABA Standards define a "reprimand" as a "public censure". *ABA Standards 2.5*. A suspension is defined as "the removal of a lawyer from the practice of law for a specified minimum period of time. Generally, the suspension should be for a period of time equal to or greater than six months." *ABA Standards 2.3* "Knowledge" is defined as the "conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result." *ABA Standards, Definitions*.

After misconduct has been established, aggravating and mitigating circumstances may be considered in deciding what sanctions to impose.

Pursuant to ABA Standard 9.22, the Panel also determines that several aggravating factors apply including Mr. Hancock's substantial experience in the practice of law, prior disciplinary offenses, a pattern of misconduct and multiple offenses, refusal to acknowledge the wrongful nature of the conduct, obvious indifference to the harmful impact of his conduct upon others, failure to mitigate the harm he has caused, indifference to making restitution, lack of candor and efforts to mislead the Panel with false testimony. The Panel also notes Mr. Hancock's persistent expressions of disdain towards the judicial system in general and the Courts in particular. Even in his most recent filings in this case, Mr. Hancock has continued his expressions of scorn. For example: "the gratuitous erroneous statements made by Chancellor Perkins" (Respondent's Post-Hearing Brief, p. 4).

Mr. Hancock's conduct in this case is the sort of abuse of the privilege to practice law that causes the lay public to hold the profession and the judicial system as a whole in disrepute. A totally innocent woman — Ms. Blair — was dragged into the civil justice system against her will, forced to incur expenses, endure emotional turmoil and be the object of impertinent and derogatory assaults to her character. Nothing that was done by Mr. Hancock to Ms. Blair was calculated to obtain compensation for Ms. Rose. Instead, every action taken by Mr. Hancock in *Rose v. Blair* was calculated to cause Ms. Blair as much expense and aggravation as possible.

Mr. Hancock argues that he was merely representing a client in a disputed claim which is the job lawyers do, even for clients whom society abhors. The Panel does not need to guess at Mr. Hancock's motives in suing Ms. Blair. He revealed his motives in his emails to the Tbalink: "I want to isolate her by suing her in another court and making her hire a lawyer to defend herself. That should put a stop to her willingness to assist." These purposes were improper, unjustified and constitute an abuse of the privilege to practice law.

The Panel does not find that any mitigating factors apply.

In this case, we find that Mr. Hancock's misconduct warrants a suspension from the practice of law.

JUDGMENT

Based upon the evidence and testimony presented at the final hearing of this matter, and upon the entire record, the Hearing Panel finds by a preponderance of the evidence that Mr. Hancock has violated Rules of Professional Conduct 3.1, Meritorious Claims and Contentions (2003 and 2011); 4.4(a), Respect for the Rights of Third Persons (2003 and 2011); and 8.4(a) and (d), Misconduct (2003 and 2011). Therefore, based upon the applicable ABA Standards and aggravating factors, the Hearing Panel finds that Mr. Hancock shall be suspended from the

practice of law for one (1) year. Further, Mr. Hancock shall be required to pay restitution in the amount of \$1,642.50, \$20,000 to Jeffrey Baker and \$2,126 to Mitzi Blair as a condition precedent to reinstatement.

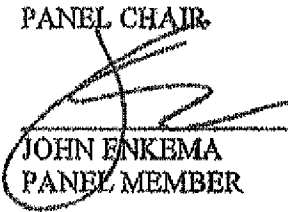
IT IS SO ORDERED.

April 14, 2014



JOSEPH WOODRUFF
PANEL CHAIR

BPR 12869



JOHN ENKEMA
PANEL MEMBER

BPR 016670



JONATHAN COLE
PANEL MEMBER

BPR 016682

NOTICE: This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.

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

FILED

2014 APR 15 PM 3:18

BOARD OF PROFESSIONAL
RESPONSIBILITY

IN RE: WILLIAM CALDWELL HANCOCK,
BPR No. 005312, Mr. Hancock
An Attorney Licensed to Practice
Law in Tennessee
(Davidson County)

DOCKET NO. 2013-22165-JHEC

AMENDED JUDGMENT


The Judgment entered in this matter on April 14, 2014 contains a clerical mistake in the statement of the amount of restitution imposed as a condition precedent to Respondent's reinstatement. Therefore, on the Hearing Panel's own Motion, pursuant to Rule 60.01 of the Tennessee Rules of Civil Procedure, the Judgment in this matter is amended to state as follows:

JUDGMENT

Based upon the evidence and testimony presented at the final hearing of this matter, and upon the entire record, the Hearing Panel finds by a preponderance of the evidence that Mr. Hancock has violated Rules of Professional Conduct 3.1, Meritorious Claims and Contentions (2003 and 2011); 4.4(a), Respect for the Rights of Third Persons (2003 and 2011); and 8.4(a) and (d), Misconduct (2003 and 2011). Therefore, based upon the applicable ABA Standards and aggravating factors, the Hearing Panel finds that Mr. Hancock shall be suspended from the practice of law for one (1) year. Further, Mr. Hancock shall be required to pay restitution in the amount of \$20,000 to Jeffrey Baker and \$2,126 to Mitzi Blair as a condition precedent to reinstatement.

IT IS SO ORDERED this 15th Day of April, 2014.

FOR THE HEARING PANEL:


Joseph A. Woodruff
Panel Chair

NOTICE: This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.