

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

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2017 DEC 11 PM 4:57  
BOARD OF PROFESSIONAL  
RESPONSIBILITY  
*Reed* EXEC. SEC.

**IN RE: PAUL JAMES SPRINGER,  
Respondent, BPR No. 21267,  
An Attorney Licensed to  
Practice Law in Tennessee  
(Shelby County)**

**DOCKET NO. 2015-2460-9-AW**

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**ORDER ON DISCIPLINARY HEARING**

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A disciplinary hearing was held in the above-styled matter on September 14, 2017. Having considered the proof at trial, the Hearing Panel ("Panel") makes the following findings of fact and conclusions of law:

**PROCEDURAL HISTORY**

1. This is a disciplinary proceeding against the Respondent, Paul James Springer, an attorney licensed to practice law in Tennessee in 2001.
2. The Petition for Discipline, Docket No. 2015-2460-9-AW, was filed May 29, 2015, and served upon Mr. Springer.
3. On November 9, 2015, Mr. Springer filed his Response to Petition for Discipline.
4. On November 9, 2015, the Hearing Panel was appointed and included Harriett Miller. Halmon, Andre B. Mathis and David L. Bearman (Chair).
5. A pre-hearing Case Management Conference was held December 9, 2015, and a Scheduling Order was entered December 10, 2015, setting the Final Hearing for May 13, 2016.
6. On May 3, 2016, the Board filed its Pre-Trial Brief and its Witness and Exhibit List.

7. Mr. Springer did not file a pre-trial brief, exhibit list or witness list.
8. On May 9, 2016, Mr. Springer filed a Motion to Continue based upon the scheduling of certain health related tests and procedures.
9. On May 10, 2016, an Order on Pre-Trial Conference was entered granting the continuance and setting a status conference for May 18, 2016. Pursuant to the May 10, 2016 Order, Mr. Springer was required to produce specific medical information documenting his health condition.
10. On May 18, 2016, Mr. Springer filed a Motion to Recuse Hearing Panel Chair David Bearman based upon certain disclosures made by the Chair at the prior status conference related to one of the complainants and the potential need to call a member of Mr. Bearman's firm as a witness.
11. On July 29, 2016, the Board filed a Motion to Set Case Management Conference and Enter an Amended Scheduling Order.
12. On August 2, 2016, the Hearing Panel entered an Order on Motion to Recuse denying the Motion.
13. On August 18, 2016, an Amended Scheduling Order was entered setting the final hearing for December 12, 2016.
14. On October 14, 2016, the Board filed a Notice it would rely upon its previously filed Pre-Trial Brief, Exhibit List and Witness List.
15. Mr. Springer did not file a pre-trial brief, exhibit list or witness list.
16. On December 5, 2016, Mr. Springer filed a Motion to Reschedule Telephone Conference set for December 5, 2016, at 3:00 p.m.

17. The pre-trial conference was rescheduled as requested and ultimately the trial was continued and reset for January 10, 2017.

18. On January 9, 2017, the Board filed a Motion to Continue the final hearing set for January 10, 2017, based upon Mr. Springer's production of a September 12, 2012, statement of Dr. Lewis, a document central to allegations set forth in the Petition for Discipline.

19. An Order on Motion for Continuance was entered by the Hearing Panel on January 10, 2017, granting the Board's Motion to continue and setting a status conference for four (4) weeks.

20. On January 31, 2017, a Notice of Deposition was filed by the Board setting the deposition of Dr. Lewis for February 22, 2017.

21. On February 27, 2017, the Board filed a Motion to Set Case Management Conference and Enter an Amended Scheduling Order.

22. On March 30, 2017, the Hearing Panel entered an Order on Case Status Conference and Scheduling Order setting the Final Hearing for June 14, 2017.

23. On April 10, 2017, Mr. Springer filed a Notice of Deposition setting the deposition of Dr. Lewis for April 12, 2017.

24. On May 5, 2017, Mr. Springer filed a Motion in Limine.

25. On May 12, 2017, Notice of Hearing was sent to all parties.

26. On May 19, 2017, the Board filed a Supplement to Previously Filed Pre-Trial Brief and a Witness and Exhibit List.

27. Mr. Springer did not file a pre-trial brief, witness or exhibit list.

28. On May 23, 2017, the Board filed a Notice of Filing of the February 22, 2017 deposition of Joyce Lewis, M.D.

29. On May 23, 2017, the Board filed a Response of Board in Opposition to Motion in Limine filed by Respondent.

30. On May 23, 2017, the Board filed a Notice of Filing of the Board of Professional Responsibility's Responses to Respondent's First Set of Interrogatories and Request for Production of Documents Propounded.

31. On May 25, 2017, Mr. Springer filed a Motion to Amend Scheduling Order.

32. On May 25, 2017, Mr. Springer filed a Motion to Compel.

33. On May 26, 2017, the Hearing Panel granted in part the Motion to Amend Scheduling Order and continued the pre-trial conference.

34. On June 2, 2017, the Board filed a Notice of Filing of Exhibits 1 through 4 to the February 22, 2017 deposition of Joyce Lewis, M.D.

35. On June 5, 2017, the Hearing Panel entered an Order on Respondent's Motion in Limine and Motion to Compel denying both motions.

36. On June 12, 2017, Mr. Springer filed a Motion to Continue Hearing.

37. On June 12, 2017, the Board filed a Response of Board in Opposition to Motion to Continue Hearing.

38. On June 14, 2017, the Hearing Panel entered an Order Granting Respondent's Motion to Continue Hearing.

39. On July 10, 2017, the Hearing Panel entered an Order on Status Conference and Setting Hearing Date and set the Final Hearing for September 14, 2017.

40. On July 31, 2017, a Notice of Hearing was provided to all parties.

41. The Final Hearing was held September 14, 2017, before a duly constituted Hearing Panel consisting of Harriett Miller Halmon, Andre Bernard Mathis and chaired by David Lee Bearman. Mr. Springer appeared pro se, and the Board was represented by A. Russell Willis.

42. At the close of the proof, the Board moved to amend the pleadings to conform to the evidence pursuant to Rule 15.02 of the Rules of Civil Procedure, and the motion was granted.

43. On September 24, 2017, the Panel entered an Order requiring the Board and Mr. Springer to submit proposed findings of fact and conclusions of law on or before October 16, 2017.

44. On October 17, 2017, Mr. Springer filed a Motion for Extension of Time to File Findings of Facts and Conclusions of Law; the Board's Opposition was filed on October 19, 2017.

45. On October 23, 2017, the Panel entered an Order denying Mr. Springer's Motion for Extension

#### **CLAIMS ASSERTED AGAINST RESPONDENT**

46. The Petition for Discipline against Mr. Springer consists of the separate complaints of Tiska Guess, Ruby Hailey and Frank Graham.

#### **TISKA GUESS**

47. In regards to the Guess complaint, the Board alleged Mr. Springer:

(a) made materially false representations to the Court and opposing parties and their counsel that Mr. Springer possessed a signed written statement from a medical expert that a good faith basis exists to maintain the medical malpractice action consistent with T.C.A. §29-26-115;

(b) failed to provide Ms. Guess with a copy of her file in a timely manner prompting Ms. Guess to file a complaint with the Board and terminate Mr. Springer;

(c) failed to respond to numerous demands from Ms. Guess and her new counsel to produce the signed statement of the medical expert in compliance with T.C.A. §29-26-122;

(d) failed to comply with an Order from the Circuit Court to produce the signed statement of the medical expert;

(e) failed to properly obtain issuance of alias summons for Baptist Hospital as required by the Rules of Civil Procedure, thereby, causing the statute of limitations on Ms. Guess' medical malpractice action to expire;

(f) failed to reasonably communicate with and made material misrepresentations to Ms. Guess regarding the status of her case;

(g) engaged in fraud, deceit and misrepresentations by forging the signature of Ms. Guess to a Contingent Fee Retainer Contract – Personal Injury agreement dated October 31, 2011;

(h) engaged in fraud, deceit and misrepresentation by obtaining a statement from Dr. Lewis by email on June 7, 2014, and thereafter, altering the document to add letterhead and back date it to September 12, 2012; and

(i) presented the Board with a written statement from Dr. Joyce Lewis of Clarkston, Georgia, dated September 12, 2012, and fraudulently represented the statement was the expert statement he was required by T.C.A. §29-26-122 to possess when he filed Ms. Guess's medical malpractice complaint on October 2, 2012.

**RUBY HAILEY**

48. In regards to the Hailey complaint, the Board alleged Mr. Springer

(a) failed to file a Certificate of Good Faith as required by T.C.A. §29-26-122;

(b) failed to file a memorandum of his clients' position as ordered by the court;

(c) failed to timely file the original Notice of Appeal with the clerk as required by Rule 5A.02 of the Rules of Civil Procedure;

(d) failed to respond to a Show Cause Order entered by the Appellate Court on June 14, 2011, directing Mr. Springer to provide proof the original Notice of Appeal was timely mailed to or filed with the Circuit Court Clerk resulting in the dismissal of the appeal by Order of the Court of Appeals dated August 11, 2011;

(e) filed a frivolous appeal with the Appellate Court resulting in the remand of the case to the trial court for imposition of sanctions against Ms. Hailey;

(f) failed to reasonable communicate with Ms. Hailey and inform her about the matters set forth above; and

(g) materially misled Ms. Hailey to believe her case was pending and proceeding.

**FRANK GRAHAM**

49. In regards to the Graham complaint, the Board alleged Mr. Springer

(a) failed to timely file Mr. Graham's Application for Permission to Appeal with the Appellate Court Clerk as required;

(b) failed to inform Mr. Graham or provide him with a copy of the show cause Order entered by Tennessee Supreme Court on August 20, 2013; and

(c) failed to respond to the show cause Order entered by Tennessee Supreme Court on August 20, 2013, resulting in the dismissal the Application for Permission to Appeal.

50. The Board alleged the above recited unethical conduct violated Rules of Professional Conduct (RPC) 1.1 (competence); 1.3 (diligence); 1.4 (communication); 1.16 (declining or terminating representation); 3.1 (meritorious claims and contentions); 3.3 (candor toward the tribunal); 3.4 (fairness to opposing party and counsel); 4.4 (respect for the rights of third persons) and 8.4 (misconduct).

#### **FINDINGS OF FACT**

51. In its case in chief, the Board called Tiska Guess, Tim Edwards, Ruby Hailey and Paul Springer as witnesses.

52. In his case in chief, Mr. Springer testified on his own behalf.

53. The testimony and evidence presented to the Hearing Panel, including orders entered by state courts on the matters underlying the Board's Complaint, establish the following facts:

#### **TISKA GUESS COMPLAINT**

54. Mr. Springer was retained on or about October 31, 2011, by Ms. Guess to prosecute a medical malpractice action arising out of the death *in utero* of Ms. Guess' daughter.

55. Mr. Springer did not discuss his compensation with Ms. Guess when he was retained or present her with a written retainer agreement, but Ms. Guess understood that she would be responsible for paying Mr. Springer for his services.



56. Ms. Guess testified that she initially found Mr. Springer to be responsive, but later perceived that Mr. Springer was not as responsive and that she did not receive timely information regarding the status of her case.

57. As her frustrations with Mr. Springer increased, Ms. Guess decided she needed to consult with another attorney.

58. On March 11, 2014, Ms. Guess orally demanded a copy of her file be provided to her. (Exhibit 2).

59. On March 12, 2014, Ms. Guess emailed Mr. Springer to confirm in writing her previous oral demand for a copy of her complete file. (Exhibit 2).

60. On March 12, 2014, Mr. Springer emailed Ms. Guess stating that she could pick up her file on Friday, March 14, 2014. (Exhibit 2).

61. On Thursday, March 13, 2014, Mr. Springer emailed Ms. Guess that he could not meet to give her the file until weekend because he was admitted to the hospital. (Exhibit 2).

62. When Mr. Springer did not provide Ms. Guess with a copy of her file as promised,

63. Ms. Guess retained attorney Tim Edwards to help her obtain a copy of her file and consider taking over the representation of her malpractice action.

64. After several demands from Ms. Guess and Mr. Edwards, Mr. Springer produced a copy of the file to Ms. Guess on April 24, 2014. (Exhibit 3).

65. Mr. Edwards reviewed the file produced by Mr. Springer and found it to be incomplete.

66. Mr. Edwards wrote Mr. Springer on May 12, 2014, notifying Mr. Springer that Ms. Guess' file appeared incomplete and requesting the following documents: (a) the written

contingency fee agreement required by the Rules of Professional Conduct, (b) the signed written statement from the medical expert set out in T.C.A. § 29-26-115, and (c) notices required by T.C.A. § 29-26-121. (Exhibit 5).

67. Mr. Edwards' letter also stated that he was unable to find proof of service on the defendants or that process had been reissued. (Exhibit 5).

68. Mr. Edwards' letter also noted that if defendants had not been served and process had not been reissued, the case was time barred and that there was no evidence that Mr. Springer had disclosed that possibility to Ms. Guess. (Exhibit 5)

69. On June 4, 2014, Mr. Springer emailed Mr. Edwards a copy of the employment contract which was introduced as Exhibit 2 by the Board. (Exhibit 7).

70. Ms. Guess testified that it was her signature on the retainer agreement (Exhibit 2), but she did not sign the document.

71. Mr. Edwards' review of the file revealed that Mr. Springer had filed a Certificate of Good Faith with the Circuit Court of Shelby County on October 2, 2012, the same date the medical malpractice action was filed. (Exhibit 6).

72. The Certificate of Good Faith filed by Mr. Springer represents that he had consulted with one or more experts who had provided Mr. Springer with a signed written statement confirming that upon information and belief (a) the expert was competent to express opinions in the case and (b) based upon the information available from the medical records, there is a good faith basis to maintain the action consistent with TCA § 29-26-115. (Exhibit 6).

73. After the medical malpractice action was filed October 2, 2012, Ms. Guess requested Mr. Springer provide her with periodic updates on the progress of her case.

74. In response to her requests, Mr. Springer represented that the medical malpractice action was proceeding as expected.

75. Mr. Springer did not disclose to Ms. Guess that he never timely served Baptist Memorial Hospital.

76. Mr. Springer never disclosed to Ms. Guess that he did not have a signed written statement from a medical expert in his file as required by TCA § 29-26-122.

77. By email dated June 2, 2014, Mr. Springer represented to Mr. Edwards that he was recovering from surgery but thought he could provide the missing documents that had been requested very quickly. (Exhibits 14 & 15).

78. On June 9, 2014, Mr. Edwards filed a legal malpractice complaint against Mr. Springer alleging that Mr. Springer materially concealed from Ms. Guess that her medical malpractice action was time barred. (Exhibit 9).

79. During the pendency of the legal malpractice action, Mr. Springer was served with discovery requesting that Mr. Springer identify the expert(s) who provided a written statement pursuant to TCA 29-26-122 and to produce the written statement. (Exhibit 11; Interrogatory 1 and Request for Production 1).

80. Mr. Springer failed to respond to the discovery or otherwise produce the signed written statement of the medical expert.

81. On October 21, 2014, Mr. Edwards filed a Motion to Compel against Mr. Springer for his failure to respond to the discovery. (Exhibit 12).

82. On November 4, 2014, the Circuit Court entered an Order on Plaintiff's Motion to Compel Discovery Responses directing Mr. Springer to respond to the discovery November 31, 2014 ("thirty (30) days from October 31, 2014). (Exhibit 13).

83. Mr. Springer failed to comply with the Order of the Circuit Court and never responded to the discovery.

84. On September 15, 2015, Judgment was entered by the Circuit Court against Mr. Springer in the amount of \$3,205,081.00 for legal malpractice. (Exhibit 10).

85. The Judgment entered includes the Circuit Court's findings that Mr. Springer represented he had a signed written statement from a physician as required by TCA § 29-26-122 but never produced the statement despite requests for same in the legal negligence action; misrepresented to Ms. Guess that her medical malpractice action was moving forward after Mr. Springer failed to renew process; and intentionally concealed his wrongful conduct and/or misrepresentations. (Exhibit 10).

86. In his Response to Petition for Discipline filed on November 9, 2015, Mr. Springer denied that Mr. Edwards had made numerous requests for the written statement from a medical expert required by TCA 29-16-122, denied that he failed to produce the written statement, denied that he did not possess the written statement, and denied that the representations in his Certificate of Good Faith filed on October 2, 2012 were false. (Exhibit 20, paragraphs 55-58; Exhibit 21, paragraphs 55-58).

87. On January 9, 2017, Mr. Springer produced to the Board a signed written statement from Joyce Lewis, M.D. dated September 12, 2012, and represented that this was the statement he possessed when he filed the Certificate of Good Faith and the medical malpractice complaint on October 2, 2012.

88. On February 22, 2017, the Board deposed Dr. Lewis in Clarkston, Georgia. (Exhibit 18).

89. Dr. Lewis testified that she received an email from Mr. Springer on June 4, 2014, attaching a draft document that Mr. Springer requested she execute. (See Exhibits 1 (email) and 2 (attachment) to Dr. Lewis Deposition (Exhibit 18)).

90. Before signing the document sent by Mr. Springer, Dr. Lewis testified that she emailed Mr. Springer asking if it mattered that she had not reviewed any medical records. (See Exhibit 1 to Dr. Lewis Deposition (Exhibit 18)).

91. Dr. Lewis testified that she made minor edits to the draft document and returned it to Mr. Springer on June 7, 2014, undated and without letterhead. (See Exhibits 1 and 2 to Dr. Lewis Deposition (Exhibit 18)).

92. Dr. Lewis testified that the letterhead appearing on Exhibit 3 to her deposition is not her letterhead and was not inserted by her. (Exhibit 18)

93. Dr. Lewis testified that the date of September 12, 2012, appearing on Exhibit 3 to her deposition was not inserted by her. (Exhibit 18)

94. Mr. Springer testified that someone in his office inserted the letterhead and the date of September 12, 2012, which appears as Exhibit 3 to Dr. Lewis' deposition.

95. Dr. Lewis testified she searched her electronic records and could find no documents indicating she had any contact with Mr. Springer prior to June 4, 2014. (Exhibit 18)

96. Dr. Lewis also testified that she would never have authorized the back-dating of her signed written statement. (Exhibit 18)

97. No documents or correspondence to or from Dr. Lewis were presented at the hearing that contradicted Dr. Lewis' testimony or the documents she produced.

98. Mr. Springer testified that the statement by a medical expert referenced in the Certificate of Good Faith he filed with the Circuit Court on October 2, 2012, in Ms. Guess' medical malpractice lawsuit is the document identified as Exhibit 3 to Dr. Lewis' deposition.

99. At the time Mr. Springer filed the Certificate of Good Faith and filed Ms. Guess' medical malpractice lawsuit, Mr. Springer did not possess a signed written statement from any medical expert required by T.C.A. § 29-26-115.

#### **RUBY HALLEY COMPLAINT**

100. On or about November 3, 2008, Mr. Springer was retained by the family of Beatrice Jackson to prosecute a medical malpractice action related to injuries suffered by Ms. Jackson which resulted in her death on June 19, 2008. (Exhibit 20; paragraph 83; Exhibit 21, paragraph 83).

101. Mr. Springer filed a medical malpractice Complaint on June 17, 2009, naming a number of defendants responsible for the injuries to and resulting death of Ms. Jackson. (Exhibit 20; paragraph 84; Exhibit 21, paragraph 84).

102. On December 4, 2009, one of the defendants, Wesley of the South, Inc., d/b/a Wesley of Dyersburg (Wesley) filed a Motion to Dismiss for failure of the plaintiffs to file a Certificate of Good Faith as required by T.C.A. §29-26-122. (Exhibit 20; paragraph 85; Exhibit 21, paragraph 85).

103. A hearing on the Motion to Dismiss was held March 29, 2010, and the matter was taken under advisement to provide plaintiffs one (1) week to file a response explaining how the failure to file the Certificate of Good Faith was due to a failure of Wesley to produce records. (Exhibit 20; paragraph 86; Exhibit 21, paragraph 86).

104. Mr. Springer filed a Motion for Extension with the trial court on April 5, 2010, seeking permission to file a Certificate of Good Faith. (Exhibit 20; paragraph 87; Exhibit 21, paragraph 87).

105. On April 22, 2010, the Circuit Court entered an Order Granting Defendant's Motion to Dismiss finding the cause of action was medical malpractice, and there was no adequate explanation for the failure of plaintiffs to file the Certificate of Good Faith. (Exhibit 20; paragraph 88; Exhibit 21, paragraph 88).

106. Plaintiffs filed a Motion to Alter or Amend on May 21, 2010, and also filed a Notice of Appeal. (Exhibit 20; paragraph 89; Exhibit 21, paragraph 89; Exhibit 17, p.3).

107. After hearing argument on the Motion to Alter or Amend, the Trial Court instructed the parties to promptly file a short memorandum of their respective positions regarding whether the medical malpractice act governed all causes of action plead by the plaintiffs. (Exhibit 20; paragraph 90; Exhibit 21, paragraph 91).

108. The Court of Appeals found that Mr. Springer did not file a memorandum of his client's position as ordered by the court. (Exhibit 17; p.3).

109. On August 12, 2010, the Circuit Court entered a Memorandum Opinion and Order Denying Motion of the Plaintiffs to Alter or Amend. (Exhibit 20; paragraph 92; Exhibit 21, paragraph 92; Exhibit 17, p.3).

110. On May 21, 2010, Mr. Springer faxed a Notice of Appeal to the Circuit Court Clerk, but never provided the original Notice of Appeal to the clerk for filing as required by Rule 5A.02 of the Rules of Civil Procedure. (Exhibit 20; paragraph 93; Exhibit 21, paragraph 93).

111. On June 14, 2011, the Court of Appeals entered an Order directing the plaintiff to show cause why the appeal should not be dismissed for failure to file a timely Notice of Appeal. (Exhibit 17; p.4).

112. The Court of Appeals found that plaintiff responded to the show cause Order but "provided no proof that the Notice of Appeal was mailed to the trial court clerk for filing," the appeal was dismissed by Order of the Court of Appeals dated August 11, 2011. (Exhibit 17; p. 4)

113. The plaintiff's Petition for Rehearing was denied by Order of the Court of Appeals dated August 30, 2011. (Exhibit 17, p. 5).

114. Plaintiff filed a third Motion to Alter or Amend with the Circuit Court on December 15, 2011, which was denied by the Circuit Court on May 9, 2012. (Exhibit 17, p.5).

115. Plaintiff filed a second Notice of Appeal on June 8, 2012. (Exhibit 20; paragraph 98; Exhibit 21, paragraph 98; Exhibit 17, p.5).

116. Defendant Wesley argued that the second appeal was frivolous and sought costs and expenses. (Exhibit 17, pp.8-9).

117. Plaintiff filed no reply in response to Defendant's request for costs and fees. (Exhibit 17, pp.8-9).

118. The Court of Appeals dismissed the second appeal for lack of subject matter jurisdiction, and, finding the appeal to be frivolous, remanded the case to the trial court to for a determination of the fees and expenses incurred by Defendant Wesley.. (Exhibit 17; Exhibit 20; paragraph 99; Exhibit 21; paragraph 99).

119. Ms. Hailey testified she called Mr. Springer numerous times to ask about the progress of her case, and Mr. Springer always responded that her case was progressing.



120. Ms. Hailey testified Mr. Springer never told her that her case had been dismissed for failing to file a Certificate of Good Faith, that he failed to file a timely notice of appeal or that her case had been dismissed by the Court of Appeals.

121. Ms. Hailey testified she discovered her case was dismissed after a friend looked it up on the internet and informed her.

122. Prior to learning her medical malpractice case had been dismissed, Ms. Hailey testified Mr. Springer led her to believe her lawsuit was pending in the Circuit Court and a trial date would be set.

123. Ms. Hailey testified that she recently read the Opinion issued by the Court of Appeals on November 19, 2013, and that Mr. Springer had not informed her of the facts and issues set out by the Court of Appeals.

124. Ms. Hailey testified that Mr. Springer made misrepresentations to her about the status of her case and never informed her that the Court had found the appeal frivolous and ordered sanctions to be imposed upon her.

#### **FRANK GRAHAM COMPLAINT**

125. In or about May, 2013, Mr. Springer undertook representation of Mr. Graham.

126. In accordance with his client's instructions, Mr. Springer prepared an Application for Permission to Appeal to the Supreme Court. (Exhibit 20, paragraph 17; Exhibit 21, paragraph 17).

127. Mr. Springer deposited the Application for Permission to Appeal in the appellate court drop box and the Application was marked by the Appellate Court Clerk as filed on July 31, 2013. (Exhibit 20, paragraph 17; Exhibit 21, paragraph 17).

128. The deadline to file the application for appeal was July 30, 2013. (Exhibit 20, paragraph 18; Exhibit 21, paragraph 18).

129. On August 20, 2013, the Supreme Court issued a show cause order requiring Mr. Springer and his client to demonstrate why the sixty (60) day time limit should be waived to allow the timely filing of the application for permission to appeal. (Exhibit 20, paragraph 20; Exhibit 21, paragraph 20; Exhibit 24).

130. Mr. Springer testified that the appeal was timely filed and that he did not receive a copy of and was not aware of the August 20, 2013 Show Cause Order.

131. On September 18, 2013, the Supreme Court dismissed the application for appeal for failure to respond to the show cause order. (Exhibit 20, paragraph 22; Exhibit 21, paragraph 22; Exhibit 25).

132. Subsequent to discovering that the Application had been dismissed, Mr. Springer did not timely notify Mr. Graham of the dismissal and the reasons for the dismissal.

#### **MR. SPRINGER'S PRIOR DISCIPLINARY HISTORY**

133. Mr. Springer is currently serving a two (2) year and sixty (60) day Suspension (minimum 60 days to be active) imposed June 23, 2016, for violating 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). (Exhibit 22).

134. Mr. Springer received a Public Censure on May 19, 2006, for violating RPC 1.1 (competence); 1.2(a) (scope of representation and allocation of authority); 1.3 (diligence); 1.4(a) and (b) (communication); 1.16(a) (declining or terminating representation) and 8.4(a), (d) and (g) (misconduct). (Exhibit 23).

### CONCLUSIONS OF LAW

135. In making the following conclusions of law, the Hearing Panel has weighed the credibility of the witnesses at the disciplinary hearing and considered the findings and conclusions of the various state courts that have addressed many of the above matters.

136. The Respondent, Paul James Springer, is an attorney admitted by the Supreme Court of Tennessee to practice law in the State of Tennessee in 2001. Mr. Springer's most recent address as shown in the most recent registration statement filed pursuant to Tenn. Sup. Ct. R. 9, § 10.1 is 2400 Poplar Avenue, Suite 411, Memphis, TN 38112, in Disciplinary District IX. The Respondent's Board of Professional Responsibility No. is 21267.

137. Pursuant to Tenn. Sup. Ct. R. 9, § 8 (2014), attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts.

138. Pursuant to Tenn. Sup. Ct. R. 9, § 1 (2014), 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.

139. Pursuant to Tenn. Sup. Ct. R. 9, § 11 (2014), acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

### **TISKA GUESS COMPLAINT**

140. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer made materially false representations to the Court, his client/former client, and opposing counsel that, upon the filing of the medical malpractice lawsuit, he (Springer) possessed a signed written statement from a medical expert that a good faith basis exists to maintain the action consistent with T.C.A. §29-26-115 when, in fact, he did not.

141. The Hearing Panel finds that the conduct set out in paragraph 140 constitutes a violation of RPC 3.3(a)(1), (g) and (h) and 8.4(c) and (d).

142. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to provide Ms. Guess with a copy of her file in a timely manner.

143. The Hearing Panel finds that the conduct set out in paragraph 142 constitutes a violation of RPC 1.16(d).

144. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to respond to numerous demands from Ms. Guess and her new counsel to produce the signed statement of the medical expert in compliance with T.C.A. §29-26-122.

145. The Hearing Panel finds that the conduct set out in paragraph 144 constitutes a violation of RPC 1.16(d) and 3.4(a), (b) and (d).

146. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to comply with an Order from the Circuit Court to produce the signed statement of the medical expert.

147. The Hearing Panel finds that the conduct set out in paragraph 146 constitutes a violation of RPC 3.4(a), (b) and (d) and 8.4(g).

148. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to properly obtain issuance of alias summons for Baptist Hospital as required by the Rules of Civil Procedure, thereby, causing the statute of limitations on Ms. Guess' medical malpractice action to expire.

149. The Hearing Panel finds that the conduct set out in paragraph 148 constitutes a violation of RPC 1.1 and 1.3.

150. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to reasonably communicate with and made material misrepresentations to Ms. Guess regarding the true status of her case.

151. The Hearing Panel finds that the conduct set out in paragraph 150 constitutes a violation of RPC 1.4; 8.4(a), (c) and (d).

152. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer engaged in fraud, deceit and misrepresentation by obtaining a statement from Dr. Lewis by email on June 7, 2014, and thereafter, altering the document to add letterhead and back-date it to September 12, 2012.

153. The Hearing Panel finds that the conduct set out in paragraph 152 constitutes a violation of RPC 8.4(a), (b), (c) and (d).

154. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer presented the Board with a written statement from Dr. Joyce Lewis of Clarkston, Georgia, dated September 12, 2012, and knowingly misrepresented

that the statement was the expert statement he was required by T.C.A. §29-26-122 to possess when he filed Ms. Guess's medical malpractice complaint on October 2, 2012.

155. The Hearing Panel finds that the conduct set out in paragraph 154 constitutes a violation of RPC 8.1(a) and (b) and 8.4 (a), (c) and (d).

156. Based upon the evidence presented, the Hearing Panel finds that the Board has not proven by a preponderance of the evidence that Paul James Springer engaged in fraud, deceit and misrepresentations by forging the signature of Ms. Guess to a Contingent Fee Retainer Contract – Personal Injury agreement dated October 31, 2011.

#### **RUBY HAILEY COMPLAINT**

157. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to file a Certificate of Good Faith as required by T.C.A. §29-26-122.

158. The Hearing Panel finds that the conduct set out in paragraph 157 constitutes a violation of RPC 1.1 and 1.3.

159. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to file a memorandum of his clients' position as ordered by the court.

160. The Hearing Panel finds that the conduct set out in paragraph 159 constitutes a violation of RPC 1.1 and 1.3.

161. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to timely file the original Notice of Appeal with the clerk as required by Rule 5A.02 of the Rules of Civil Procedure.

162. The Hearing Panel finds that the conduct set out in paragraph 161 constitutes a violation of RPC 1.1 and 1.3.

163. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to respond to a Show Cause Order entered by the Appellate Court on June 14, 2011, directing Mr. Springer to provide proof that the original Notice of Appeal was timely mailed to or filed with the Circuit Court Clerk resulting in the dismissal of the appeal by Order of the Court of Appeals dated August 11, 2011.

164. The Hearing Panel finds that the conduct set out in paragraph 163 constitutes a violation of RPC 1.1 and 1.3.

165. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer filed an appeal in the Appellate Court which the Court found to be frivolous and resulted in the remand of the case to the trial court for imposition of sanctions against Ms. Hailey.

166. The Hearing Panel finds that the conduct set out in paragraph 165 constitutes a violation of RPC 3.1. However, the Panel acknowledges Mr. Springer's testimony at the hearing regarding the reasons the appeal was filed and note that this specific violation is not included in the Panel's final imposition of discipline.

167. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to reasonably communicate with Ms. Hailey and inform her about the matters set forth above.

168. The Hearing Panel finds that the conduct set out in paragraph 167 constitutes a violation of RPC 1.2(a) and 1.4.

169. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer materially misled Ms. Hailey to believe her case was pending and proceeding.

170. The Hearing Panel finds that the conduct set out in paragraph 169 constitutes a violation of RPC 1.2(a), 1.4 and 8.4(a) and (c).

#### **FRANK GRAHAM COMPLAINT**

171. Based upon the evidence presented, the Hearing Panel finds by a preponderance of the evidence that Paul James Springer failed to timely file Mr. Graham's Application for Permission to Appeal with the Appellate Court Clerk,

172. The Hearing Panel finds that the conduct set out in paragraph 171 constitutes a violation of RPC 1.1 and 1.3.

173. Based upon the evidence presented, including specifically, Mr. Springer, testimony that he did not receive a copy of the show cause Order, the Hearing Panel finds that the Board has not proven by a preponderance of the evidence that Paul James Springer's failure to inform Mr. Graham or provide him with a copy of the show cause Order entered by Tennessee Supreme Court on August 20, 2013, constituted a violation of RPC 1.2(a) and 1.4..

174. Based upon the evidence presented, including specifically, Mr. Springer, testimony that he did not receive a copy of the show cause Order, the Hearing Panel finds that the Board has not proven by a preponderance of the evidence that Paul James Springer's failure to respond to the show cause Order entered by Tennessee Supreme Court on August 20, 2013, resulting in the dismissal the Application for Permission to Appeal constituted a violation of RPC 1.1; 1.3 and 3.4(c).



### **APPLICATION OF THE ABA STANDARDS**

175. Pursuant to Tenn. Sup. Ct. R. 9, § 8.4, the appropriate discipline must be based upon application of the ABA Standards for Imposing Lawyer Sanctions, (“ABA Standards”).

176. Based upon the facts and misconduct previously cited, the Hearing Panel finds the following ABA Standards applicable and relevant to its determination of the appropriate discipline to be imposed against Mr. Springer:

4.41 Disbarment is generally appropriate when:

- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

5.11 Disbarment is generally appropriate when:

- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.

6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

6.21 Disbarment is generally appropriate when a lawyer knowingly violates a court order or rule with the intent to obtain a benefit for the lawyer or another, and causes serious injury or potentially serious injury to a party or causes serious or potentially serious interference with a legal proceeding.

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

### **AGGRAVATING AND MITIGATING CIRCUMSTANCES**

177. Pursuant to ABA Standard 9.22, the following aggravating factors should be considered by the Hearing Panel to determine the appropriate discipline to be imposed against Mr. Springer:

a. Prior Discipline (9.22(a)): Mr. Springer's prior discipline includes the imposition of a Public Censure on May 19, 2006. Mr. Springer was found by the Tennessee Court of Criminal Appeals to be in willful contempt of court for failing to file an appeal brief in three separate criminal appeals. Mr. Springer further ignored the Court by failing to pay the \$50.00 fine imposed in each case. (Exhibit 23).

Mr. Springer is currently serving a two (2) year and sixty (60) day Suspension (minimum 60 days to be active) imposed June 23, 2016, for violating 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). (Exhibit 22).

b. Dishonest or Selfish Motive (9.22(b)): Mr. Springer has engaged in fraud, misrepresentations, deceit and dishonesty related to the knowing alteration of the medical statement of Dr. Lewis and his subsequent use of the altered document to mislead his client, the Board and this Hearing Panel that said document was created and in his possession prior to October 3, 2012.

c. Pattern of Misconduct (9.22(c)): Mr. Springer's pattern of misconduct is an aggravating circumstance justifying an increase in the degree of discipline to be imposed. Mr. Springer has been disciplined previously for exceedingly dilatory conduct on behalf of several clients. In the present disciplinary action, Mr. Springer again demonstrated his lack of diligence and competence in filing pleadings and responding to

opposing counsel and the Courts.

d. Multiple Offenses (9.22(d)): Mr. Springer's multiple offenses are an aggravating circumstance justifying an increase in the degree of discipline to be imposed.

e. Substantial Experience (9.22(i)): Mr. Springer's substantial experience, having been licensed in Tennessee in 2001 is an aggravating circumstance.

f. Refusal to Acknowledge Wrongful Nature of Conduct (9.22(g)): Mr. Springer has maintained throughout this disciplinary action he has not engaged in any wrongful conduct and has shown no remorse for his misconduct.

178. ABA Standard 9.32 sets out mitigating factors "that may justify a reduction in the degree of discipline to be imposed." Those factors include personal problems (9.32(c)) and physical disability (9.32(h)). Mr. Springer has verbally raised issues that, if evidence had been presented, might have fallen into one or both of those categories. However, no evidence was offered at the hearing to prove the existence of such circumstances during the pendency of the underlying matters. In any event, the Panel finds that even if such evidence had been presented, it would not materially impact its final decision.

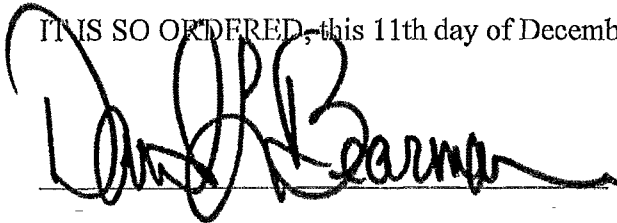
### **JUDGMENT**

Based upon the facts in this case, the applicable Rules of Professional Conduct and the ABA Standards, the Hearing Panel unanimously finds by a preponderance of the evidence that Mr. Springer committed disciplinary misconduct as set out in herein and should be disbarred from the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 12.1.

**NOTICE**

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 33 (2014) by filing a Petition for Review in the Circuit or Chancery Court within sixty (60) days of the date of entry of the hearing panel's judgment.

IT IS SO ORDERED, this 11th day of December, 2017

A handwritten signature in black ink, appearing to read "David L. Bearman", written over a horizontal line.

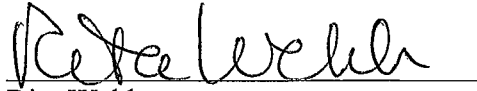
David L. Bearman, Panel Chair

Harriett Miller Halmon

Andre B. Mathis

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, Paul James Springer, 4971 Le Chateau Cove, Memphis, TN 38116, by U.S. First Class Mail, and hand-delivered to A. Russell Willis, Disciplinary Counsel, on this the 11th day of December, 2017.

A handwritten signature in black ink, appearing to read "Rita Webb", is written over a horizontal line.

Rita Webb  
Executive Secretary