

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL C**

IN RE: LAWRENCE CLAY HONEYCUTT
ARKANSAS BAR ID NO. 78074
CPC DOCKET NO. 2005-158

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by a self-referral from Lawrence Clay Honeycutt, Respondent. The information related to the representation of Nickie Murray by Respondent in 2000 and 2001. Following a ballot vote decision, Lawrence Clay Honeycutt requested a *de novo* hearing pursuant to Section 11 of the Procedures Regulating Professional Conduct of Attorneys at Law. A hearing was held on February 2, 2007, before Panel C of the Committee on Professional Conduct. The panel consisted of six members due to the absence of Panel Member Rita M. Harvey. Mr. Honeycutt was represented by Scott Hickam, Attorney at Law, Hot Springs, Arkansas. The Office of Professional Conduct was represented by Michael Harmon.

Lawrence Clay Honeycutt, Attorney at Law, Hot Springs, Arkansas, testified before the panel. Mr. Honeycutt admitted that he was employed by Vickie Murray to represent Nickie Murray, a minor, in relation to injuries sustained when a vehicle owned by Service Cab Company and driven by Charles Edgar Black, struck a corner of the Murrays's home causing Nickie to fall and suffer injuries. Mr. Honeycutt filed suit in Garland County Circuit Court on Ms. Murray's behalf on March 24, 2000.

Mr. Honeycutt admitted that a Pre-Trial Order was entered by the Honorable Tom Smitherman, Garland County Circuit Judge, requiring each party to file a pre-trial brief listing the

names of all parties, a summary of the claims, prospects for settlements, pending motions and stipulations. The opposing party filed its response to the Pre-Trial Order. Mr. Honeycutt admitted that he filed no response to the Pre-Trial Order.

On June 1, 2001, Judge Smitherman's case coordinator sent a letter to Mr. Honeycutt advising him that she had not received a copy of the response to the Pre-Trial Order and that if no response was received by June 29, 2001, the Complaint would be dismissed for failure to comply with the Court's Pre-Trial Order. Mr. Honeycutt admitted that he did not file a response to the letter from the case coordinator. On August 2, 2001, an Order was entered dismissing Ms. Murray's lawsuit without prejudice for failure to comply with the Pre-Trial Order.

Mr. Honeycutt testified that he had no recollection of receipt of the Pre-Trial Order or the letter from the case coordinator. Mr. Honeycutt stated that his secretary at the time, Joyce Roberts, had emphysema and had become increasingly ill during that period of time. As a result, she worked from home and took files with her, one of which was the Murray case-file. Mr. Honeycutt stated that Ms. Roberts later died and that he obtained the case-file from Ms. Roberts's home.

In November, 2004, Mr. Honeycutt testified that he advised his client the case had been dismissed. Mr. Honeycutt advised Ms. Murray that it was his reasonable belief that the lawsuit had little, if any "value", based upon the circumstances of the alleged liability and the eventual insolvency of the Service Cab Company. Mr. Honeycutt testified that he wanted to do the right thing, which was to personally compensate Ms. Murray for leaving her in suspense for a protracted period of time and for what little, if any, recovery she might have had. Mr. Honeycutt admitted that the case should not have met its fate in the manner that it did and was embarrassed by the whole situation when he realized what had occurred. After discussing the matter with the Murrays and a

friend of the Murrays, Mr. Honeycutt prepared his promissory note in the amount of \$4,000 with a payment of \$550.00 to be paid immediately and the balance to be paid in full by June 1, 2005. Ms. Murray agreed to the arrangement and three payments were then made. ON October 14, 2004, Mr. Honeycutt paid Ms. Murray \$50.00. On October 28, 2004, Mr. Honeycutt paid Ms. Murray \$300.00. On November 3, 2004, Mr. Honeycutt paid Ms. Murray \$200.00. No further payments were made to Ms. Murray by Mr. Honeycutt until June 24, 2005, when Mr. Honeycutt paid Ms. Murray \$100.00.

On August 15, 2005, Ms. Murray filed suit against Mr. Honeycutt for negligent representation of her in her legal matter. Records from the Garland County Circuit Clerk's Office show that the case was dismissed with prejudice on June 29, 2005, following settlement of the lawsuit with a payment in the amount of \$4,500.

Upon consideration of the formal complaint, the response, the testimony and evidence presented, and the Arkansas Model Rules of Professional Conduct, Panel C of the Arkansas Supreme Court Committee on Professional Conduct finds that:

1. LAWRENCE CLAY HONEYCUTT violated Model Rule 1.3 in the case of Vickie Murray, as next Friend to Nickie Murray, A Minor v. Service Cab Company, et al., Garland County Circuit Court Court No. CIV 2000-180, when he failed to respond to a pre-trial Order dated April 10, 2001, within thirty (30) days of April 10, 2001, and when he failed to respond to a June 1, 2001, reminder about responding to the pre-trial Order before June 29, 2001. Model Rule 1.3 requires that a lawyer acting with reasonable diligence and promptness in representing a client. [2001 Edition].

2. LAWRENCE CLAY HONEYCUTT violated Model Rule 1.4(a) when he failed to provide his clients, Vickie Murray and Nickie Murray, with adequate information about the status of their legal claims, and failed to notify his clients, Vickie Murray and Nickie Murray, that their lawsuit in Garland County Circuit Court had been dismissed in August 2001. Model Rule 1.4(a)

requires that a lawyer keep a client reasonable informed about the status of a matter and promptly comply with reasonable requests for information. [2001 Edition]

3. The Committee split as to whether LAWRENCE CLAY HONEYCUTT violated Rule 3.4(c) when he failed to comply within thirty (30) days of the April 10, 2001, Order of the Garland County Circuit Court and when he failed to comply by June 29, 2001, to a request of the case coordinator to respond to the April 10, 2001, Order in the Murray v. Service Cab Company case. The three Panel Members voting in favor of a finding a violation of Rule 3.4(c) were L. Scott Stafford, Jim Ross, and Beverly Morrow. The three Panel Members voting against finding a violation of Rule 3.4(c) were Searcy Harrell, Jr., Ken Mourton, and Robert Trammell. As a majority of the Panel did not find this Rule violation to be proven, no violation is found.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that LAWRENCE CLAY HONEYCUTT, Arkansas Bar ID No. 78074, be, and hereby is, CAUTIONED for his conduct in this matter and assessed costs in the amount of ONE HUNDRED DOLLARS (\$100.00). The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL C

By: _____
Searcy W. Harrell, Jr.,
Chairman

Date: _____