

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

IN RE:           ROBERT M. ABNEY, Respondent  
                  Arkansas Bar ID#80001  
                  CPC Docket No. 2006-129

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information coming to the attention of the Office of Professional Conduct in the Orders of the Arkansas Supreme Court denying Mr. Abney's Motion for Rule on the Clerk in the case of *Mary Kathryn Heathscott v. Elizabeth Cessna, et al*, 06-00984. The information related to the representation of Mary Kathryn Heathscott by Respondent, Robert M. Abney, an attorney practicing primarily in Des Arc, Arkansas, in 2006.

On October 6, 2006, Respondent was served with a formal complaint, supported by pleadings and Orders filed in the matter of *Heathscott v. Cessna, et al*. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that Mr. Abney filed a Motion for Rule on the Clerk on September 1, 2006, with the Arkansas Supreme Court in the matter of *Heathscott v. Cessna, et al*. The Motion for Rule on the Clerk reveals that Mr. Abney filed a timely Notice of Appeal, on May 17, 2006, to the final order entered in the trial court. Pursuant to Rule 5 of the Rules of Appellate Procedure - Civil, the record was to be filed within ninety (90) days of the date of the filing of the Notice of Appeal. In order to be timely, the record would have had to be tendered to the Clerk on or before August 15, 2006. Mr. Abney did not tender the record to the

Clerk until August 25, 2006. Mr. Abney explained in the Motion for Rule on the Clerk that he miscalculated the date for tendering the record on appeal. He accepted full responsibility for the failure to timely file the record on appeal.

After consideration of Mr. Abney's Motion, the Court denied it. The effect of which is that his client, Ms. Heathscott, is denied the opportunity for appellate review of the lower court's decision.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Mr. Abney's conduct violated Arkansas Rule of Professional Conduct 1.3 because he failed to be certain that he tendered the record on appeal for Ms. Heathscott within ninety (90) days of the date of the filing of the Notice of Appeal. He did not tender the record until 100 days after the filing of the Notice of Appeal. Arkansas Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that ROBERT B. ABNEY, Arkansas Bar ID# 80001, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Abney is assessed the costs of this proceeding in the amount of fifty (\$50) dollars. 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 A

By: \_\_\_\_\_  
Phil D. Hout, Chair, Panel A

Date: \_\_\_\_\_

(13.M, Rev.1-1-02)