

LOUISIANA ATTORNEY DISCIPLINARY BOARD

IN RE: LINDSEY J. LEAVOY

DOCKET NO. 24-DB-018

REPORT OF HEARING COMMITTEE # 26

INTRODUCTION

This attorney disciplinary matter arises out of formal charges filed by the Office of Disciplinary Counsel (“ODC”) against Lindsey J. Leavoy (“Respondent”), Louisiana Bar Roll Number 19004.¹ ODC alleges that Respondent violated the following Rules of Professional Conduct: 1.3, 1.4, 1.5(c) and (e).²

PROCEDURAL HISTORY

The formal charges were filed on June 12, 2024. By letters dated June 18, 2024, the formal charges were mailed via certified mail to Respondent’s primary and secondary registration addresses.³ The mailing to the secondary address was received by Respondent on June 21, 2024. The mailing to the primary address was returned. Respondent failed to file an answer to the charges. Accordingly, on July 29, 2024, ODC filed a motion to deem the factual allegations admitted pursuant to Louisiana Supreme Court Rule XIX, §11(E)(3).⁴ By order signed August 8,

¹ Respondent was admitted to the practice of law in Louisiana on October 7, 1988. Respondent is currently suspended from the practice of law on an interim basis. *In re Leavoy*, 2024-0991 (8/7/2024).

² See the attached Appendix for the text of these Rules.

³ 10839 Perkins Rd., Baton Rouge, LA 70810 (primary); 1767 Rue Desiree, Baton Rouge, LA 70810 (secondary).

⁴ This rule states:

The respondent shall file a written answer with the Board and serve a copy on disciplinary counsel within twenty (20) days after service of the formal charges, unless the time is extended by the chair of the hearing committee. In the event, Respondent fails to answer within the prescribed time, or the time as extended, the factual allegations contained within the formal charges shall be deemed admitted and proven by clear and convincing evidence. Disciplinary Counsel shall file a motion with the chair of the hearing committee to which the matter is assigned requesting that the factual allegations be deemed proven with proof of service of the formal charges upon the respondent. The

2024, the factual allegations contained in the formal charges were deemed admitted. On September 3, 2024, ODC filed its submission on sanction.

For the following reasons, the Committee finds Respondent, Lindsey J. Leavoy has violated Louisiana Rules of Professional Conduct 1.3, 1.4, 1.5(c) and 1.5(e).

FORMAL CHARGES

The formal charges read, in pertinent part:

Mr. Cornelius Jackson hired the Respondent's brother, attorney Leslie R. Leavoy, Jr. ("Leavoy, Jr."), in July of 2015, to handle a personal injury claim for a contingency fee. According to Mr. Jackson he did not sign a written contingency fee agreement and no written contingency fee agreement has been produced to date.

On June 27, 2016, Leavoy, Jr. filed suit on behalf of Mr. Jackson. Leavoy, Jr. subsequently associated the Respondent to participate as co-counsel in Mr. Jackson's representation. Respondent worked in a different and unassociated firm. The Respondent also testified that he had no written contingency fee agreement with Mr. Jackson.

The Respondent also testified that he and Leavoy, Jr. had no written agreement regarding the split of attorney's fees between themselves. Leavoy, Jr. testified the fees were to be split 50/50 between himself and the Respondent, with a re-evaluation after resolution of the case. Neither Respondent, nor Leavoy, Jr. obtained Mr. Jackson's written consent to the fee split. The Respondent testified that he did meet with Mr. Jackson's treating surgeon and primary health care provider, that he took a deposition and that he participated in Mr. Jackson's mediation, which was unsuccessful. Respondent testified that he "just never got around to filing a motion to set the trial date with the court." Respondent suffered a heart attack in June of 2022, and underwent quadruple bypass surgery in June of 2023. Mr. Jackson's client file indicates very little to nothing was done in Mr. Jackson's case after the mediation. The suit was ultimately dismissed for abandonment in February of 2024. [FN1. On or about February 21, 2024, defendants in Mr. Jackson's underlying lawsuit filed an *Ex Parte Motion to Dismiss on Grounds of Abandonment* alleging that the suit was abandoned because the last action taken in the matter was on February 4, 2021, when the defendants propounded discovery upon the plaintiffs which was never answered. The court granted the motion to dismiss for abandonment in an order signed March 12, 2024.]

order signed by the hearing committee chair shall be served upon respondent as provided by Section 13C. Within twenty (20) days of the mailing of the order of the hearing committee chair deeming the factual allegations contained in the formal charges proven, the respondent may move the hearing committee chair to recall the order thus issued upon demonstration of good cause why imposition of the order would be improper or would result in a miscarriage of justice.

The ODC respectfully submits there is clear and convincing evidence that the Respondent, Lindsey J. Leavoy, has violated Louisiana Rules of Professional Conduct 1.3, 1.4, 1.5(c) and 1.5(e).

EVIDENCE

The Committee reviewed the exhibits submitted by ODC, which are Exhibits ODC 1-10. Respondent did not submit evidence or argument for the Committee's consideration, nor did he request to be heard in mitigation pursuant to Rule XIX, §11(E)(4).

FINDINGS OF FACT

Because the Respondent failed to submit an answer to the formal charges, the Committee relied solely on exhibits submitted by ODC. The most compelling of these exhibits were sworn statements taken as part of the ODC investigation of file No. 41235, a complaint by Cornelius Jackson against Respondent's brother, Leslie R. Leavoy, Jr. (and co-counsel in the matter involved in the formal charges here). These sworn statements were given by Leslie R. Leavoy, Jr., Cornelius Jackson, and Lindsey J. Leavoy.

In reviewing the exhibits, the Committee agrees with the ODC that there is clear and convincing evidence of the following:

Despite taking on the responsibility of helping represent Cornelius Jackson in a personal injury suit, said suit was abandoned due to Respondent's failure to timely file a motion to set the matter for trial; Respondent failed to communicate with Cornelius Jackson for years; and Respondent failed to obtain Cornelius Jackson's informed, written consent to both his representation and fee splitting with co-counsel.

RULES VIOLATED

The Committee finds that Respondent Lindsey J. Leavoy violated the following Louisiana Rules of Professional Conduct:

Rule 1.3. Diligence A lawyer shall act with reasonable diligence and promptness in representing a client.

Sworn statements prove that Respondent failed to take timely actions, including the filing of motion to set for trial, which resulted in Cornelius Jackson's personal injury suit being ordered by the court as abandoned.

Rule 1.4. (a) Communication

A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) (3) (4) (5) (b) reasonably consult with the client about the means by which the client's objectives are to be accomplished; keep the client reasonably informed about the status of the matter; promptly comply with reasonable requests for information; and consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law. The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued. (c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

Sworn statements prove that Respondent failed to: get Cornelius Jackson's informed consent regarding representation or fee splitting with co-counsel; reasonably inform Cornelius Jackson about the status of his lawsuit; and promptly reply with reasonable requests for information.

Rule 1.5 (c) and (e)(1).

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by Paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client. A copy or duplicate original of the executed agreement shall be given to the client at the time of execution of the agreement. The contingency fee agreement shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; the litigation and other expenses that are to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(e) A division of fee between lawyers who are not in the same firm may be made only if:
(1) the client agrees in writing to the representation by all of the lawyers involved, and is advised in writing as to the share of the fee that each lawyer will receive.

Sworn statements prove that Respondent did not get an agreement in writing with Cornelius Jackson regarding a contingency fee in his personal injury case, nor did Respondent get Cornelius

Jackson's written consent to be represented by both Leslie R. Leavoy, Jr. and Lindsey J. Leavoy, lawyers from different firms.

SANCTION

Louisiana Supreme Court Rule XIX, §10(C), states that when imposing a sanction after a finding of lawyer misconduct, a committee shall consider the following factors:

- (1) Whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) Whether the lawyer acted intentionally, knowingly, or negligently;
- (3) The amount of the actual or potential injury caused by the lawyer's misconduct; and
- (4) The existence of any aggravating or mitigating factors.

Here, Respondent violated duties owed to Cornelius Jackson. He acted knowingly in that: he was aware the case and the client required attention after mediation in the matter failed to produce results; he was aware that he needed to communicate with the client and co-counsel regarding same; he was aware that a written agreement with the client was required regarding co-representation, contingency fees and fee splitting.

Respondent's misconduct caused actual harm to his client, Cornelius Jackson. While there was some disagreement about the potential total value of Mr. Jackson's case, all parties giving sworn statements agreed the case did have value. Respondent's co-counsel went as far as to advise Mr. Jackson to seek damages in a malpractice suit.

The *ABA Standards for Imposing Lawyer Sanctions* suggest that a suspension is the baseline sanction for Respondent's misconduct. ABA Standard 4.4 covers violations of the Louisiana Rules of Professional Conduct violated here: 1.3 (diligence) and 1.4 (communication), which are duties owed to clients. ABA standard 4.42 indicates that suspension is appropriate when a lawyer *knowingly* fails to perform services, or engages in a pattern of neglect, and causes injury

or potential injury. As stated, Respondent's violations of rules 1.3, 1.4, and 1.5(c) and (e)(1) were proven to be *knowing* and caused *harm* to the client.

With regard to sanctions, the aggravating factors in this case include a substantial experience in the practice of law and a complete lack of cooperation with the ODC in this particular case. A mitigating factor is Respondent's lack of prior discipline.

While there is no case law directly on point, the Committee considers the facts of *In Re: Swafford* to be substantially similar. 2017-2154 (La. 3/23/2018), 238 So.3d 957. In *Swafford*, the respondent neglected a succession matter, failed to respond to a client's request for information and failed to timely inform the client that the respondent would not complete the representation. The conduct was found to be knowing. Like our present case, aggravating factors included substantial experience in the practice of law. Mitigating factors included absence of prior disciplinary record and the absence of a dishonest or selfish motive. However, in *Swafford*, the respondent fully cooperated with the ODC's investigation. The Committee feels the lack of cooperation in this matter warrants a longer period of suspension than that of *Swafford*, where the respondent was suspended for six months, with three months deferred, subject to a one-year period of conditional probation.

CONCLUSION

For the reasons heretofore assigned, the Committee recommends the Respondent, Lindsey J. Leavoy, be suspended from the practice of law for a period of twelve (12) months, with all but six months deferred, followed by a one-year period of probation. Further, Respondent should be ordered to pay all costs and expenses of these disciplinary proceedings pursuant to Rule XIX, §10.1.

This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized Kenneth P. Mathews to sign on their behalf.

Mandeville, Louisiana, this 21 day of October, 2024.

**Louisiana Attorney Disciplinary Board
Hearing Committee # 26**

**Kenneth P. Mathews, Committee Chair
Angela C. Williams, Lawyer Member
Bridgette K. Hardy, Public Member**

BY:



**Kenneth P. Mathews, Committee Chair
For the Committee**

APPENDIX

Rule 1.3. Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 1.4. Communication

(a) A lawyer shall: (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules; (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished; (3) keep the client reasonably informed about the status of the matter; (4) promptly comply with reasonable requests for information; and (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

(c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

Rule 1.5. Fees

...

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by Paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client. A copy or duplicate original of the executed agreement shall be given to the client at the time of execution of the agreement. The contingency fee agreement shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; the litigation and other expenses that are to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

...

(e) A division of fee between lawyers who are not in the same firm may be made only if: (1) the client agrees in writing to the representation by all of the lawyers involved, and is advised in writing as to the share of the fee that each lawyer will receive; (2) the total fee is reasonable; and (3) each lawyer renders meaningful legal services for the client in the matter.

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