

Disciplinary Case Summaries

No. 18PDJ022. People v. English. 4/25/2018. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Daniel L. English (attorney registration number 01731), effective April 25, 2018.

In 2014, English and another lawyer began representing a client in a medical malpractice case under a contingency fee agreement. Though the client had agreed to pay all costs, English fronted some costs for him. Co-counsel sent English a check for \$3,000 to cover a portion of those costs. In 2016, English and co-counsel had a disagreement leading co-counsel to withdraw from the client's representation. She sent English a "notice of lien," stating that she expected to be reimbursed in the amount of \$3,000 once the case settled. English and co-counsel further communicated about the cost reimbursement issue, which was apparently not resolved.

Stipulations were reached in the client's case in fall 2016. The client executed a settlement release and non-disclosure agreement, which stated the settlement amount. English's final disbursement statement, however, did not specify the settlement amount received or computation of contingency fees, contrary to CRCP Chapter 23.3, Rule 5. He thereby violated Colo. RPC 1.5(c) (a lawyer's contingent fee agreement must conform to the requirements of Chapter 23.3 of the Colorado Rules of Civil Procedure).

Between October 2016 and January 2017, English's former co-counsel requested information from him about the case's outcome. English eventually responded, saying he had entered into a confidential settlement agreement and could not disclose the amount of

the settlement. English did not segregate or withhold any portion of the settlement proceeds, even though his former co-counsel claimed an interest in them. English thus violated Colo. RPC 1.15A(c) (a lawyer shall keep separate any property in which two or more persons claim an interest until there is a resolution of the claims). English believed that his former co-counsel was not entitled to attorney fees because she had withdrawn from the case before trial. After a request for investigation was filed, English moved a sum of money into his trust account for purposes of resolving the fee dispute, which the two lawyers later resolved.

No. 17PDJ065. People v. Falco III. 3/6/2018. Following a reinstatement hearing, a hearing board reinstated Philip M. Falco III (attorney registration number 27930) to the practice of law under CRCP 251.29.

In August 2016, Falco was suspended for nine months with the requirement that he petition for reinstatement under CRCP 251.29(c). His discipline was premised on his physical assault of his then-wife, who at the time was 20 weeks' pregnant with their fourth child. In that disciplinary case, Falco was found to have lacked candor and sought to minimize his conduct. At the end of his period of suspension, Falco sought reinstatement of his law license. A hearing board concluded that reinstatement was appropriate because Falco proved by clear and convincing evidence his compliance with disciplinary orders, his rehabilitation, and his fitness to practice law.

No. 17PDJ069. McCarthy v. People. 5/9/2018. The Presiding Disciplinary Judge approved a stipulation and agreement under CRCP 251.29(j)

and reinstated Sean Michael McCarthy (attorney registration number 20499) to the practice of law, effective May 9, 2018. The parties agreed that McCarthy is rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law.

No. 18PDJ011. People v. Miller. 5/21/2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Rusty David Miller (attorney registration number 42495) for 90 days, all to be stayed upon the successful completion of a one-year period of probation, effective June 25, 2018.

On December 3, 2016, Miller stole a bottle of wine, which was valued at more than \$500, from a Castle Rock liquor store. When Miller was contacted by law enforcement soon thereafter, he denied taking the bottle of wine and denied knowing why law enforcement had contacted him. Later, when Miller met with law enforcement officials, he returned the bottle of wine.

Miller was charged in Castle Rock Municipal Court with one count: a violation of Castle Rock Municipal Code Section 9.04.180(B) General Theft—Willfully Concealing Unpurchased Goods with Intent—Shoplifting. On April 5, 2017, Miller entered a guilty plea. Judgment and sentencing were deferred for 12 months. As part of his deferred judgment and sentence, Miller was ordered to complete 50 hours of useful public service and attend a petty theft class. He successfully completed all terms and conditions of his deferred judgment and sentence. He also timely self-reported his conviction to disciplinary authorities.

Miller's guilty plea, as part of a deferred judgment and sentence, constitutes a crimi-

nal conviction under CRCP 251.20. Through his misconduct, Miller violated Colo. RPC 8.4(b) and CRCP 251.5(b) (a lawyer engages in misconduct by committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects) and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

No. 17PDJ067. People v. Snyder. 3/10/2018. Following a sanctions hearing, the Presiding Disciplinary Judge suspended Albert R. Snyder (attorney registration number 41912) for three years, effective May 15, 2018.

Snyder was hired to obtain lawful permanent resident status for a Mexican national who was married to a U.S. citizen. Snyder failed to communicate with the couple during the

representation and failed to effectively explain his legal strategies. Snyder's inaction on the case resulted in the expiry of the husband's immigration petition. While representing these clients, Snyder was administratively suspended from the practice of law, yet he failed to advise the couple of his suspension, and he did not withdraw from the representation. He never produced an accounting of his time or his fees.

Through his conduct, Snyder violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(b) (a lawyer shall explain a matter so as to permit the client to make informed decisions regarding the representation); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after

being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.15A(b) (a lawyer shall promptly deliver to the client or third person any funds or property that the person is entitled to receive); Colo. RPC 1.15D (a lawyer shall maintain trust account records); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); and Colo. RPC 5.5(a) (a lawyer shall not practice law without a law license or other specific authorization). **CL**

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