

## Disciplinary Case Summaries

**No. 17PDJ079. People v. Hernandez.** 11/6/2018. The Presiding Disciplinary Judge publicly censured Josue David Hernandez (attorney registration number 44509) on November 6, 2018.

In May 2017, the U.S. Court of Appeals for the Tenth Circuit issued an order directing Hernandez to show cause why he should not be sanctioned under the Tenth Circuit's attorneys disciplinary rules. In that order, the Tenth

Circuit panel described Hernandez's pattern of "unreasonably" increasing "the cost of litigation" in an appeal by filing "prolix, redundant, meandering pleadings" and ignoring "the repeated suggestion that briefs . . . be kept to a reasonable length." The panel observed that, among other things, Hernandez had filed "an unauthorized 72-page brief to the notice of appeal" and that Hernandez had unreasonably increased the cost of litigation on three occasions.

After Hernandez responded to the show cause order, the Tenth Circuit panel entered a sanctions order in July 2017, publicly admonishing him for violating the Tenth Circuit's attorney disciplinary rules.

The Office of Attorney Regulation Counsel sought the same discipline in Colorado as that imposed by the Tenth Circuit, and Hernandez challenged the request for reciprocal discipline. The Presiding Disciplinary Judge concluded in an order granting summary judgment that Hernandez's misconduct constituted grounds for the imposition of reciprocal discipline in Colorado under CRCP 251.21(e). The Colorado Supreme Court affirmed on October 26, 2018.

**No. 18PDJ052. People v. Hoak.** 10/22/2018.

The Presiding Disciplinary Judge granted a motion for entry of default and imposed reciprocal discipline, suspending Linda Renee Hoak (attorney registration number 33451) from the practice of law for one year and one day, all to be stayed upon the successful completion of Texas probationary conditions. Hoak's probation was effective on November 26, 2018.

This reciprocal discipline case arose out of discipline imposed upon Hoak in Texas. On June 19, 2018, the State Bar of Texas entered an order suspending Hoak for one year, all to be stayed, conditioned on certain terms. This discipline was premised on Hoak's agreement that she neglected a legal matter; failed to keep her client reasonably informed about the status of his matter; failed to promptly comply with her client's reasonable requests for information; failed to refund unearned fees after she was terminated; and failed to timely respond to Texas disciplinary authorities.

Hoak's misconduct constituted grounds for reciprocal discipline under CRCP 251.5 and 251.21.

**No. 18PDJ066. People v. Odle.** 11/7/2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Robert Phillip Odle (attorney registration number 18091) for six months, effective March 1, 2019.

Odle, a sole practitioner in Colorado Springs, represented a number of clients through a

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nonprofit organization that assists victims of domestic violence.

M. filed for a protective order against her ex-boyfriend in 2017 after he physically and sexually abused her. After obtaining a temporary restraining order, she sought the nonprofit's assistance with a permanent protection order. The nonprofit hired Odle to represent her in that matter. Odle secured a permanent protection order for M. in October 2017. M. then separately hired Odle to file a replevin action against her ex-boyfriend, which Odle did in November 2017. He treated the \$1,700 fee for that case as earned upon receipt, thus violating Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property).

Odle and M. often communicated by text message. In September 2017, Odle asked M. to see a movie with him, saying that he was "offering friendship." M. declined, saying she

was "not able to even see any male friends." Several days later, he invited her to an event, but she rejected the offer. Odle texted M. again within three days, calling her "darling girl" and saying she was beautiful. He also referred to the messages as "very intimate" and sent her a kiss emoji, despite M. noting in her own messages the "boundary" of the attorney-client relationship. Toward the end of September, Odle again invited M. to go to a movie with him, but she said no.

In early October 2017, Odle suggested, to no avail, that he could bring M. wine and massage her until she fell asleep. A few days later, Odle falsely told her that he was no longer her attorney and thus suggested that she go to a movie with him. Odle also invited her to dinner on two occasions in mid-October. M. declined all of these invitations.

Through this conduct, Odle violated Colo. RPC 8.4(a) (proscribing attempts to violate the

Rules of Professional Conduct) and Colo. RPC 1.8(j) (a lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship began), as well as Colo. RPC 1.7 (restricting the circumstances in which a lawyer may represent a client if the representation involves a concurrent conflict of interest).

After the replevin case had been resolved, M. reported Odle's conduct to the nonprofit organization, which removed him from its approved provider list.

**No. 18PDJ073. People v. Pappacoda.**  
11/13/2018.

The Presiding Disciplinary Judge approved the parties' stipulation to reciprocal discipline and disbarred Joseph J. Pappacoda (attorney registration number 23649), effective November 13, 2018.



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This reciprocal discipline case arose out of discipline imposed in Florida. On April 19, 2018, the Supreme Court of Florida entered an order imposing disciplinary revocation on Pappacoda. This discipline was premised on Pappacoda's unauthorized transfer of \$112,512.24 from his trust account into his operating account.


Pappacoda's misconduct constituted grounds for reciprocal discipline under CRCP 251.5 and 251.21.

**No. 17PDJ037. People v. Ziankovich.** 5/31/2018. A hearing board suspended Youras Ziankovich (New York attorney registration number 5196324) from the practice of law in Colorado for one year and one day, with three months to be served and the remainder to be stayed upon the successful completion of a two-year period of probation, with the requirement of practice monitoring and trust account monitoring. The

suspension took effect October 31, 2018. As of November 2018, Ziankovich's appeal of the opinion remained pending; his applications for a stay of the sanction pending appeal were denied by the hearing board and the Colorado Supreme Court.

Ziankovich is licensed to practice law in New York but not in Colorado. He maintained an immigration law practice in Aurora called "Rocky Mountains Immigration Lawyers, Inc." In 2016, Ziankovich was hired by a couple—a Ukrainian citizen and a lawful permanent resident of the United States—to provide immigration-related legal services. The couple paid Ziankovich legal fees. He placed those fees in his corporate checking account rather than a trust account, even though he had not fully earned the fees. After his services were terminated, he made only a partial refund of fees owed to the clients.

In this representation, Ziankovich charged a fee that was disproportionate to the work he completed. Further, he double-billed his clients. He also improperly treated certain fees as nonrefundable and failed to safeguard his clients' funds, instead commingling them with his own money. Last, Ziankovich made a misrepresentation to his client about the date a naturalization application was mailed.

Partial summary judgment was entered based on a finding that Ziankovich violated six Colorado Rules of Professional Conduct: Colo. RPC 1.5(a) (a lawyer shall not charge an unreasonable fee); Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.5(g) (a lawyer shall not charge nonrefundable fees or retainers); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by returning unearned fees); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). 

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CLE Item Number: **ZCEPFB17B**

CBA Member Price: **\$259**

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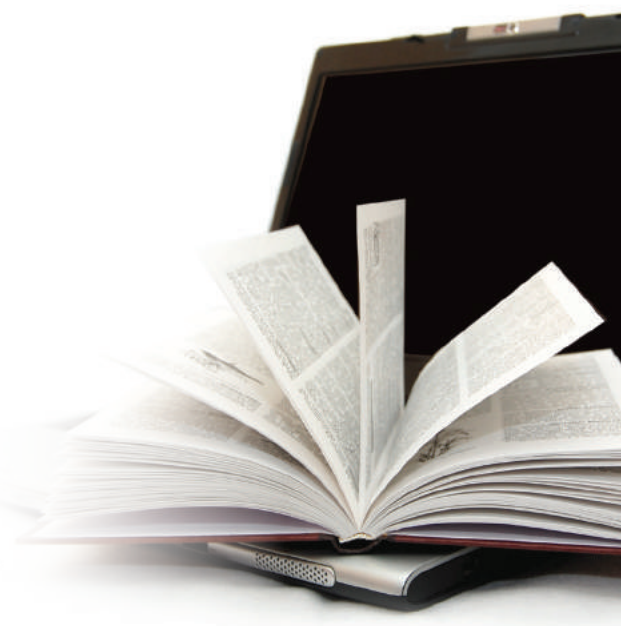
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