

## Disciplinary Case Summaries

### **No. 19PDJ076. People v. Dierdorf Mester.** 11/20/2019.

The Presiding Disciplinary Judge approved a conditional admission of misconduct and imposed reciprocal discipline, suspending Katherine Dierdorf Mester (attorney registration number 49286) from the practice of law in Colorado for three years, effective November 20, 2019. Dierdorf Mester must petition for reinstatement and show by clear and convincing evidence that she has been rehabilitated, has complied with disciplinary orders and rules, is fit to practice law, and has been reinstated in Missouri.

This reciprocal discipline case arose out of discipline imposed by the Supreme Court of Missouri on August 29, 2019, indefinitely suspending Dierdorf Mester from the practice of law, with no leave to apply for reinstatement for three years. Dierdorf Mester was disciplined for multiple violations of the rules of professional conduct based on her dishonesty about and concealment of a brutal assault of a suspect in custody by a police detective and the charges resulting therefrom filed by her friend and co-assistant circuit attorney for the city of St. Louis.

Dierdorf Mester's misconduct constitutes grounds for reciprocal discipline under CRCP 251.5 and 251.21.

The case file is public per CRCP 251.31.

### **No. 19PDJ073. People v. Hyde.** 11/5/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended William R. Hyde (attorney registration number 20854) for one year and one day, effective November 5, 2019.

In May 2018, Hyde intentionally set fire to the garage of a house he was renting in an

attempt to commit suicide. His roommate was present in the house and pulled him out of the fire. Hyde did not intend to hurt anyone else through his actions. In September 2018, Hyde pleaded guilty to fourth-degree felony arson and was sentenced to probation with conditions.

Through this conduct, Hyde violated Colo. RPC 8.4(b) (it is professional misconduct for a lawyer to commit a criminal act that reflects

adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects).

The case file is public per CRCP 251.31.

### **No. 19PDJ074. People v. Jansen.** 11/25/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Molly F. Jansen (attorney registration number 34528) for a period of one year and one day, all to be stayed upon completion of two years of probation, effective October 25, 2019.

Jansen used flat fee agreements in her practice that set forth the following benchmarks: 25% of the fee would be deemed earned upon filing an entry of appearance; 25% would be earned by starting negotiations with the prosecution; 25% would be earned on receiving and reviewing discovery; and 25% would be earned after appearing in court.

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In multiple client matters, Jansen treated portions of clients' flat fees as earned before meeting the benchmarks described in the clients' fee agreements. Jansen also failed to provide an accounting of client funds, despite client requests for her to do so, and she failed to return or delayed returning unused portions of the fees when clients terminated representation.

Jansen failed to properly execute fee agreements in two cases. In one case, Jansen failed to keep appointments with an incarcerated client and never responded to his letters requesting information about his case. Jansen also sent substitute counsel (without providing notice to her client or securing her client's consent for the substitution) to appear on her behalf at multiple court appearances. Substitute counsel was unfamiliar with the case and was unable to provide the client legal advice.

Through this conduct, Jansen violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(2) (a lawyer shall reasonably consult with a client about the means by which the client's objectives are to be accomplished); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 1.5(a) (a lawyer shall not make an agreement for, charge, or collect an unreasonable fee); Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses if the lawyer has not regularly represented the client); 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 1.7(a)(2) (restricting the circumstances in which a lawyer may represent a client if the representation involves a concurrent conflict of interest); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); and Colo. RPC 1.15A(b) (upon receiving funds or other property of a client or third person, a lawyer shall promptly deliver to the client or third person any funds or property that person is entitled to receive).

The case file is public per CRCP 251.31.

**No. 19PDJ071. People v. Magee.** 11/20/2019.

The Presiding Disciplinary Judge approved a conditional admission of misconduct and imposed reciprocal discipline, suspending William M. Magee (attorney registration number 22855) from the practice of law in Colorado for two years, effective January 30, 2019. Magee must petition for reinstatement and show by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, is fit to practice law, and has been reinstated in Louisiana.

This reciprocal discipline case arose out of discipline imposed by the Supreme Court of Louisiana on January 30, 2019, suspending Magee from the practice of law for two years. Magee was disciplined for falsifying quitclaim deeds and misrepresenting to the courts his ownership interests in multiple properties. The quitclaim deeds created a cloud on the properties' titles, which caused harm to future owners.

Magee's misconduct constitutes grounds for reciprocal discipline under CRCP 251.5 and 251.21.

The case file is public per CRCP 251.31.

**No. 18PDJ079 (consolidated with Nos. 19PDJ026 & 19PDJ037). People v. Pearce.** 11/13/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and disbarred Randall Bo Pearce (attorney registration number 08424), effective November 13, 2019. Pearce must also pay restitution.

In April 2019, the Court entered judgment on the pleadings in case number 18PDJ079. In



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June and July 2019, the Court entered default judgment in case numbers 19PDJ026 and 19PDJ037, respectively, establishing all facts and rule violations as set forth in the complaint. The three complaints allege that Pearce mishandled cases and converted client funds in nine client matters since 2017.

Through his conduct, Pearce violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); 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 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); 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); Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by giving reasonable notice to the client and returning unearned fees, papers, and property to which the client is entitled); Colo. RPC 3.2 (a lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client); Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 8.4(c) (providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (providing that it is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice).

The case file is public per CRCP 251.31.

**No. 19PDJ059. Richard v. People.** 11/19/2019.

Following an appearance by the parties per CRCP 251.29(j), the Presiding Disciplinary Judge approved the parties' stipulation and reinstated Andrea Leah Richard (attorney

registration number 30467) to the practice of law, effective November 19, 2019.

The parties agreed that Richard has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law. No opinion was issued.

The case file is public per CRCP 251.31.

**No. 18PDJ072. People v. Roth.** 10/21/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Jack B. Roth (attorney registration number 32040), effective October 21, 2019.

Roth, a former assistant attorney general at the Colorado Attorney General's office, was counsel of record in the prosecutions of two death-penalty eligible homicides. In 2016, Roth gave two lectures to undergraduate classes at the University of Colorado, Colorado Springs.

In those lectures, he discussed non-public facts regarding the two prosecutions (one of which had not been filed as of the first lecture). Roth negligently believed the facts of the cases had become public or would soon become public.

Roth also disclosed his personal opinions about the defendants' guilt and the appropriate punishment in each case. Finally, Roth's statements had a substantial likelihood of materially prejudicing the adjudicative proceedings in the underlying matters.

Through this conduct, Roth violated Colo. RPC 3.6(a) (a lawyer who participates in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding).

The case file is public per CRCP 251.31.

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**No. 19PDJ075. People v. Shotwell.** 11/8/2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Gwendolyn Jean Shotwell (attorney registration number 32238) for one year and one day, all to be stayed upon successful completion of a one-year period of probation, effective November 8, 2019. The probationary requirements include completing an ethics course and complying with all terms of her criminal deferred judgment and sentence.

In April 2019, Shotwell pleaded guilty to two charges in Denver District Court. The first count was a fourth-degree felony charge of driving under the influence with three priors.

The second count was a misdemeanor count of driving under the influence per se. Shotwell received a three-year deferred judgment and sentence with probationary conditions and community service. She also served 90 days in the Denver County jail RISE program and paid court costs and fees, and she is completing 160 hours of counseling. The numerous mitigating factors present in this case include that Shotwell was immediately suspended from the practice of law in June 2019 based on her felony conviction.

Through her conduct, Shotwell violated Colo. RPC 8.4(b) (a lawyer shall not commit a criminal act that reflects adversely on the

lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects).

The case file is public per CRCP 251.31. CL

These summaries of disciplinary case opinions and conditional admissions of misconduct are prepared by the Office of the Presiding Disciplinary Judge and are provided as a service by the CBA; the CBA cannot guarantee their accuracy or completeness. Full opinions are available on the Office of the Presiding Disciplinary Judge website at [www.coloradosupremecourt.com/PDJ/PDJ\\_Decisions.asp](http://www.coloradosupremecourt.com/PDJ/PDJ_Decisions.asp).



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