

People v. David Eugene Bath. 14PDJ108. February 25, 2015.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended David Eugene Bath (Attorney Registration Number 05679) from the practice of law for eight months, with four months served and four months stayed upon the completion of a two-year period of probation. The probationary terms include the requirement of practice monitoring. The suspension took effect February 25, 2015.

In the 2012-2014 timeframe, Bath engaged in misconduct while representing a husband and wife in a medical malpractice case. He failed to comply with six court orders, such as orders regarding scheduling and the filing of status reports, even after the court entered notices of possible dismissal of the case. When opposing counsel moved to compel discovery and for costs and attorney's fees, Bath never filed a response. The court entered a sanction of \$8,499.87, but Bath never told his client of the award. He failed to advise his clients of a wide range of orders and motions, and he did not tell his clients about major developments, such as the resetting of the trial. In addition, Bath scheduled a deposition for one of his clients but did not advise the client of the deposition or attend it himself. He never told the clients about the missed deposition or that the defense requested additional costs as a result.

Ultimately, Bath told his clients that success in the case was unlikely and, without explaining the ramifications, advised them to agree to dismiss the case with prejudice. Thereafter, he negotiated a dismissal of the case with the condition that neither party would seek costs or fees, such as costs for the missed deposition. The clients later hired another attorney who successfully moved to reopen the case.

In this matter, Bath 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 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct prejudicial to the administration of justice).