

People v. Robert Jason Herrera. 18PDJo26. November 29, 2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Robert Jason Herrera (attorney registration number 37093) for three years, to take effect January 3, 2019. To be reinstated, Herrera will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law. He must also undergo an independent medical examination before he can be reinstated.

Between September and November 2016, Herrera represented a home health care company in a legal dispute with a law firm; the dispute had been submitted to arbitration. Herrera was a longtime friend of an executive of that company.

On October 3, 2016, the law firm offered to settle the dispute for \$450,000.00. Sometime before October 19, 2016, Herrera became aware that his client had offered to settle the dispute for either \$25,000.00 or \$30,000.00. Herrera was also aware of a plan to obtain opposing counsel's signature on a settlement agreement without opposing counsel realizing that he was signing a settlement agreement. He discussed with his friend and others how to obtain opposing counsel's signature on that settlement document. Herrera was aware that a settlement agreement was placed in a box that was delivered to opposing counsel on October 20, 2016. Herrera then emailed opposing counsel on October 21, 2016, confirming his signature and attaching the signed settlement agreement, even though Herrera was aware that opposing counsel's signature was obtained and placed on the settlement agreement through deception. When he sent that email, Herrera was also aware that neither opposing counsel nor anyone from the law firm had intended to settle the case.

Also on October 21, 2016, Herrera emailed the arbitrator, tendering the purported settlement agreement, asserting that the matter had settled, and canceling the arbitrator's services. When he did so, Herrera was aware that opposing counsel's signature had been placed on the settlement agreement through deception and that neither opposing counsel nor anyone from the law firm had intended to settle the legal matter on October 19 or 20, 2016. He was further aware that his assertions to the arbitrator that the matter had settled and that the arbitrator was no longer needed lacked merit. Herrera failed to correct the false assertions of fact made to opposing counsel and to the arbitrator between October 21 and November 3, 2016.

In another matter, Herrera assaulted and caused bodily injury to his father on November 20, 2016. Herrera's father had intervened during an altercation between Herrera and his mother. His father's injuries included facial abrasions and a broken rib. Herrera pleaded guilty to assault in the third degree.

Through his conduct, Herrera violated Colo. RPC 1.2(d) (a lawyer shall not counsel a client to engage in criminal or fraudulent conduct); Colo. RPC 3.1 (a lawyer shall not assert frivolous claims); Colo. RPC 3.3(a)(1) (a lawyer shall not knowingly make a false statement of material fact or law to a tribunal); 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); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). The case file is public per C.R.C.P. 251.31.