

People v. Shaun C. Kaufman. 16PDJ044, consolidated with 17PDJ023. September 19, 2017.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Shaun C. Kaufman (attorney registration number 14152) for three years, effective October 24, 2017. To be reinstated, Kaufman will bear the burden of proving by clear and convincing evidence that he has complied with disciplinary orders and rules, he is fit to practice law, and he has been rehabilitated from the issues underlying his misconduct.

Kaufman engaged in misconduct in six separate client matters. In one criminal matter, he negotiated in plea bargaining with the district attorney without having obtained discovery. In another criminal case, he failed to appear at two scheduled arraignments, failed to pick up all discovery before the first two jury trial settings, failed to appear for the first two jury trials; and was three hours late to the second day of the trial. In a third criminal matter, Kaufman failed to appear for two arraignment dates. The court sent Kaufman a show cause order and issued a contempt citation. Kaufman advised his client that he should obtain new counsel, based on the show cause order. The contempt citation was later dismissed.

In a fourth matter, a client hired Kaufman in a criminal case and an allocation of parental rights case. Kaufman later concluded that he could not represent the client in either case, but he withdrew only in the parental rights case. He then failed to appear in the criminal case, and the court issued a show cause order. Kaufman thereafter realized that he had never filed an entry of appearance, as ordered, in the criminal case.

In a fifth client matter, Kaufman failed to keep the client informed about the status of his two civil cases; stopped working on the cases; failed to respond to the client's requests for information; did not keep adequate time or accounting records; terminated the attorney-client relationship by abandoning the representation; and neglected to return the unearned portion of the client's unearned retainers.

Finally, in a personal injury matter, Kaufman failed to prepare the client's case: he did not interview witnesses, doctors, or other experts; retain or disclose experts; obtain or disclose medical records and bills to support his client's damage claims; or interview or disclose a custodian of records so records could be admitted into evidence. Although Kaufman's incompetence destroyed his client's case, he deceived his client about his preparation and never told her that his incompetence would prevent her from prevailing. He then settled without his client's knowledge or permission and later forced his client, by threatening to withdraw from the representation, to agree to the settlement, thereby favoring his personal interest in collecting any settlement money over his client's interest in going to trial.

Through this misconduct, Kaufman violated Colo. RPC 1.1 (a lawyer shall competently represent a client); Colo. RPC 1.2(a) (a lawyer must abide by the client's decisions concerning the objectives of a case and consult with the client regarding the means to achieve the objectives); Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a) (a lawyer shall communicate with a client about strategy, keep a client reasonably informed, and promptly comply with reasonable requests

for information); Colo. RPC 1.15D(a)(1-2) (a lawyer shall maintain trust account records); 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 and any papers and property to which the client is entitled); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); Colo. RPC 8.4(d) (a lawyer shall not engage in conduct that prejudices the administration of justice).