

People v. Darlene Mann. 23PDJ022. April 24, 2024.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Darlene Mann (attorney registration number 36328) for twenty-six months, effective May 29, 2024.

In one client matter, Mann agreed to arrange for a kinship adoption and to prepare wills for married clients on an hourly basis. Mann deposited the clients' \$3,500.00 advance retainer in her trust account. She filed several pleadings, including a proposed final decree of adoption. In mid-November 2020, she withdrew \$1,347.00 from trust for these services. Mann's client ledger does not show any other bills or invoices related to the case, and she did little work for the clients after that time. Even so, Mann later withdrew an additional \$1,347.00 from trust, citing the same invoice. Mann's trust account balance dropped below the amount she should have been holding for her clients at least twice, including for a four-month period. Mann did not refund the unearned portion of the retainer, return the clients' file, or notify them that her law license was suspended effective November 2021. Mann later agreed to pay the clients' subsequent counsel's legal fees, but to date she has only paid approximately half of those fees.

In another matter, Mann represented a client facing a contempt citation in a dissolution action for failing to sell certain vehicles to pay off marital debt. At a hearing, Mann produced three checks, not yet negotiated, totaling \$25,500.00 from the vehicles' sales. Mann deposited the checks into her payroll account, but checks representing \$15,000.00 were dishonored. Thus, only \$10,500.00 of the client's funds remained in Mann's control. Mann deposited that sum into trust but soon withdrew money for her fees in the contempt matter. At least twice, including from March until September 2021, Mann's trust balance dipped below the sum she should have held for her client. At a later hearing, Mann told the court that the checks bounced, which was misleading because opposing counsel and the court believed that Mann had not received any funds, and she did not inform the court that she had deposited \$10,500.00 from the checks. Mann's client was held in contempt and ordered to pay the full amount. The client gave Mann a cashier's check for \$15,000.00. Mann deposited the money into trust but immediately withdrew funds to pay herself, dropping her trust balance below that which was necessary to purge her client's contempt. Mann later told the court that she held in trust the requisite money to purge the contempt, which was false. Ultimately, Mann failed to turn over \$10,500.00 to opposing counsel from January until October 2021, during which time she used the funds to pay her own business expenses without authorization from her client, opposing counsel, or the court.

Through this conduct, Mann violated Colo. RPC 1.15A(a) (a lawyer must hold client property separate from the lawyer's own property); Colo. RPC 1.15(A)(b) (on receiving funds of a client or third person, a lawyer must promptly deliver to the client or third person any funds that person is entitled to receive); Colo. RPC 1.16(d) (a lawyer must protect a client's interests on termination of the representation, including by returning unearned fees); and Colo. RPC 3.3(a)(1) (a lawyer must not knowingly make a false statement of material fact or law to a tribunal). The case file is public per C.R.C.P. 242.41(a).