

People v. Thomas Richard Clinton. 14PDJ063. July 28, 2014.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Thomas Richard Clinton (Attorney Registration Number 12757) for four months, all stayed upon the successful completion of a two-year period of probation, with conditions. The probation took effect July 28, 2014.

In August 2012, Clinton was retained by a criminal defendant for representation in two cases. Clinton charged his client \$35,000.00 for three phases of litigation, including discovery, trial preparation, and trial. Clinton did not provide his client with a written explanation of his fee. His client's wife paid him \$10,000.00, but Clinton did not give her a receipt, nor did he deposit any of the funds. Instead, Clinton gave \$5,000.00 to his co-counsel and \$1,100.00 to his son. He kept the remaining \$3,900.00 in a lockbox in his office and withdrew fees as he earned them. Clinton kept no documentation of these transactions.

During the representation, Clinton reviewed his client's discovery, performed research, met with the U.S. attorney, and met with his client on six occasions. There was no court activity on his client's cases between October 18, 2012, and March 21, 2013, nor did Clinton speak with his client during this time period. He finally contacted his client's wife in March 2013 to inform her that he had suffered a mild heart attack. Clinton thereafter failed to respond to a request for an accounting but asserts that he first became aware of his client's request during the disciplinary investigation. When his client retained new counsel, Clinton did not turn over any file notes, pleadings, memoranda, or research documents.

Clinton's misconduct violates Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.5(b) (a lawyer shall communicate, in writing, the rate or basis of the fee and expenses within a reasonable time after commencing representation); Colo. RPC 1.5(f) (a lawyer does not earn fees until the lawyer confers a benefit on the client or performs a legal service); Colo. RPC 1.15(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15(b) (a lawyer shall promptly deliver client funds or property and render a full accounting); and Colo. RPC 1.16(d) (a lawyer shall protect the client's interests upon termination of the representation).