

People v. Gary D. Fielder. 19PDJ079. December 12, 2019.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Gary D. Fielder (attorney registration number 19757) for one year and one day, all to be stayed upon successful completion of a two-year period of probation, effective December 12, 2019. The probationary requirements include completing an ethics course, trust account school and a financial audit, and adhering to practice monitoring conditions.

In December 2017, Fielder was paid a flat fee of \$30,000.00 to represent a client in two pending legal matters. Fielder did not execute a fee agreement with the client, nor did he communicate the basis or rate for the fee in writing until just before the client terminated the representation. Although Fielder originally deposited the full fee into his trust account, he made multiple transfers from his trust account into his operating account without any specific benchmarks and in an arbitrary manner. After termination of representation, Fielder attended fee arbitration and ultimately agreed to repay the client \$15,000.00 in unearned fees and costs of \$4,250.13.

Through this conduct, Fielder violated Colo. RPC 1.5(b) (a lawyer shall inform a client in writing about the lawyer's fees and expenses within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.5(f) (a lawyer does not earn fees until a benefit is conferred on the client or the lawyer performs a legal service); Colo. RPC 1.15A(a) (a lawyer shall hold client property separate from the lawyer's own property); Colo. RPC 1.15A(b) (on receiving funds or other property of a client or third person, a lawyer shall promptly deliver to the client or third person any funds or property that person is entitled to receive); and 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).

The case file is public per C.R.C.P. 251.31.