

People v. Charlene Happ Sinclair. 20PDJ015. March 23, 2020.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Charlene Happ Sinclair (attorney registration number 25308) for ninety days, all stayed upon the successful completion of a one-year period of probation. Significant weight was given to the imposition of other penalties or sanctions. The probation took effect March 23, 2020.

Sinclair represented a client in easement negotiations in which the parties signed off on a partial agreement reached during mediation. A few hours after the mediation session ended, opposing counsel notified Sinclair that the parties had mistakenly signed a draft version of the agreement and provided her with the final version. Sinclair replied, "I don't see a real problem . . . I'll get [my client] to look over the new version and get back to you." Over the following five months, the parties continued to negotiate the matters not covered by the agreement. Sinclair never raised concerns about the mediated easement agreement; her client signed the final version of the agreement and received the stipulated monetary payout directly from opposing counsel.

After opposing counsel filed for entry of judgment on the easement matter, and after the appropriate time to file a response had passed, Sinclair filed a motion to set aside the easement agreement due to fraud, coercion, and misrepresentation by the adverse party and counsel. In her motion, Sinclair knowingly misrepresented communications between the parties and included no case law or legal argument to support her claims. The court denied the motion and found it to be "not well-grounded in fact or law" as well as "frivolous, groundless, and vexatious." The court awarded \$10,186.50 in attorney's fees against Sinclair personally.

Sinclair appealed the order and, later, the reasonableness of the amount of fees awarded. The appeals court denied both appeals, noting a lack of legal analysis or support. Ultimately, Sinclair was personally ordered to pay \$19,696.50 in attorney's fees for the first appeal and \$6,750.07 for the second appeal.

Sinclair has paid the \$36,633.07 total attorney's fees awarded against her.

Through this conduct, Sinclair violated 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 to a tribunal); Colo. RPC 8.4(c) (providing that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (providing that it is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice).

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