

People v. Robert Wiegand II. 18PDJ060. November 21, 2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Robert Wiegand II (attorney registration number 07463) for one year and one day, all stayed upon the successful completion of a two-year period of probation, effective November 21, 2018. The probationary requirements include attending ethics school and completing an eight-hour course related to sexual harassment or human resources. The stipulation provides for a stayed, rather than served, suspension based on the preponderance of applicable mitigating factors.

Wiegand, a Denver attorney, hired a female associate in 2009. Around that time, he also hired a female office manager. Wiegand's office shared two unisex bathrooms with an adjoining convenience store. Wiegand and his wife were the sole members of the entity that owned the commercial spaces. One day in 2012, the associate changed her clothes in one of the bathrooms and later discovered a surveillance camera there. She suspected that Wiegand had placed the camera in the bathroom. She presented the camera to Wiegand and suggested calling the police. Wiegand did not agree to immediately do so. He opened the battery compartment and handled the batteries in front of the associate. Ultimately, the police were contacted, but the investigation was later closed.

In addition, the parties agree that Wiegand engaged in various behaviors that made the associate and the office manager uncomfortable and caused them emotional harm, including touching the associate on her back, tapping the office manager on her buttocks with a rolled-up magazine, making comments about women wearing swimsuits at office pool parties, and asking about gynecological care when setting up health insurance. However, it is disputed whether the statute of limitations would bar disciplinary claims based on those behaviors.

The associate and the office manager left the firm. They both filed discrimination claims with the Colorado Civil Rights Division. In a deposition, Wiegand initially testified that he never handled the camera batteries. He later testified that he did so in his associate's presence. After a trial in 2016, the court found in favor of the associate and the office manager on their claims of premises liability and sexual discrimination; the office manager also prevailed on her claim of intentional infliction of emotional distress. The court found by a preponderance of the evidence that Wiegand was either directly responsible for or complicit in placing the camera. The court stated, however, that it could not make this finding beyond a reasonable doubt. The standard of proof in lawyer discipline proceedings is clear and convincing evidence, and the disciplinary stipulation states that it does not resolve the question of whether Wiegand placed the camera in the restroom. Wiegand denies having done so. The civil rights claims court also found that Wiegand's firm lacked appropriate discrimination or harassment policies and procedures. He has since addressed those issues.

Through his conduct, Wiegand violated Colo. RPC 3.4(a) (a lawyer shall not unlawfully obstruct another party's access to evidence) and Colo. RPC 8.4(h) (a lawyer shall not engage

in any conduct that directly, intentionally, and wrongfully harms others and that adversely reflects on the lawyer's fitness to practice law). The case file is public per C.R.C.P. 251.31.