

People v. John A. Cimino. 21PDJ027. May 13, 2021.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended John A. Cimino (attorney registration number 14032) for six months, with four months to be served and two months to be stayed upon the completion of a one-year period of probation, with conditions to include refunding money to his client. The suspension takes effect on June 17, 2021.

In 2019, a client retained Cimino to pursue her personal injury claims related to two separate motor vehicle accidents. Cimino and his client entered a contingent fee agreement that provided Cimino would earn 30 percent of any award if the claim settled without a trial; 40 percent after commencement of trial; or 50 percent if an appeal or another trial were necessary. In November 2016, Cimino settled one of the claims for \$15,000.00 but took \$5,000.00—or 33 percent of the settlement—even though he was entitled to only 30 percent, or \$4,500.00.

In late December 2016, the client authorized Cimino to take 40 percent of any award recovered in the second claim, but Cimino did not amend the fee agreement to reflect the higher percentage. Around that time, Cimino advised his client to accept a settlement offer of \$40,000.00 and volunteered to reduce his fee to 25 percent of the recovery, or \$10,000.00. His client initially agreed but continued to discuss the settlement with him during the following few days because she believed her case was worth more than \$40,000.00. Cimino never rescinded his offer to accept 25 percent of the settlement. The next month, the matter settled for \$40,000.00. Cimino disbursed \$15,000.00 to his client, put \$9,000.00 in trust for unresolved medical bills, and kept \$16,000.00—or 40 percent of the award—for himself.

Through this conduct, Cimino violated Colo. RPC 1.4(a) (a lawyer shall reasonably communicate with the client); Colo. RPC 1.5(a) (a lawyer shall not charge an unreasonable fee); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).

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