

*People v. W. Jeffrey Barnes. 22PDJ014. May 20, 2022.*

The Presiding Disciplinary Judge approved the parties' amended stipulation to discipline and suspended W. Jeffrey Barnes (attorney registration number 19646) for nine months, with two months to be served and seven months to be stayed upon his successful completion of a one-year probationary period with conditions. The suspension took effect on May 20, 2022.

In one matter, Barnes agreed to help a client appeal a civil judgment in a lawsuit the client had brought pro se against a bank to resist entry of a deficiency judgment related to a foreclosure on the client's home. The client provided two initial retainer payments, but Barnes did not put those payments in a trust account. Barnes began work to appeal the judgment. The bank meanwhile moved for attorney's fees and costs; Barnes failed to advise the client about possible objections he could make. When the client later asked Barnes whether the bank could begin collection efforts, Barnes replied that they would need to move to stay collection pending the appeal. But he never filed such a motion. Later, the bank filed writs of garnishment on the client's bank accounts. Barnes again told the client that he would move to stay collection efforts pending the appeal, but he never did so. The client eventually terminated the representation, requesting an accounting and a refund of the unearned portion of the retainer. Six months later, the client asked again. Barnes accused the client of extorting him and of filing a meritless disciplinary grievance, concluding "You are trying to steal work from me, which is both a civil and criminal offense. Perhaps I should notify the DA of your threats."

Through this conduct, Barnes violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer must keep a client reasonably informed about the status of the matter); 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 4.5(a) (a lawyer shall not threaten criminal, administrative, or disciplinary charges to obtain an advantage in a civil matter).

In another matter, a client gave Barnes a small retainer for representation in two matters. He failed to place these unearned funds into a trust account. He began work, but the relationship deteriorated. When he asked for an additional retainer deposit and the client did not respond, he moved to withdraw. The client demanded return of her retainer. Barnes emailed in response, "Do you honestly think you can use me to investigate your cases and get delays on your cases and then try and cheat me out of fees which you agreed to pay? That is called Theft of Services and may constitute both civil and criminal wrongs." In another email he said, "Once again, you signed a contract to pay for my time and costs. There is no money left. If you persist with this, I will be forced to report you, as a disbarred attorney who was essentially convicted of stealing from her law Firm employer, to the appropriate authorities." Through this conduct, Barnes violated Colo. RPC 1.15A(a) and Colo. RPC 4.5(a).

The case file is public per C.R.C.P. 242.41(a)(2).