

People v. Michelle Ann Marker. 22PDJ047. August 2, 2022.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and publicly censure Michelle Ann Marker (attorney registration number 32120). The public censure, which took effect August 2, 2022, carries conditions.

Marker agreed to represent an incarcerated client in defending against a motion to modify child support filed by the client's former spouse. Marker says she spoke with the client about a \$2,000.00 retainer, earned on an hourly basis, but the client believed that Marker would charge her a \$2,000.00 flat fee. Marker did not provide the client a fee agreement until six months later. The delay was due in part to the client's concerns about receiving mail while incarcerated. In the fee agreement, Marker reserved the right to change her hourly rate without notice.

The client's parents mailed Marker a check. Marker negligently deposited the check in her operating account, which was overdrawn. By the time she deposited the check, she had earned only about a quarter of those funds. The following day, Marker deposited additional funds into her operating account; in a month's time, however, her operating account was overdrawn once again. Marker earned the full retainer several months later.

The client later asked Marker for an accounting and invoices, which Marker had neglected to send monthly. Marker eventually sent the client an invoice with some charges that the client disputed. Marker clarified with the client that she did not intend to collect on all the charges listed.

Through this negligent conduct, Marker violated Colo. RPC 1.4(a)(3) (a lawyer must keep a client reasonably informed about the status of the matter); Colo. RPC 1.5(b) (a lawyer must 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); and Colo. RPC 1.15A(a) (a lawyer must hold client property separate from the lawyer's own property).

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