

People v. Richard Wescott Daily. 13PDJ081. October 18, 2013. The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Richard Wescott Daily (Attorney Registration Number 02938) from the practice of law for one year and one day. The suspension takes effect November 22, 2013. In 2008, Daily agreed to perform an audit for clients in connection with a lawsuit he had litigated. Daily was to receive a fee of \$10,000.00, to be paid from a trust account containing settlement funds from the related lawsuit. Daily confirmed in writing his intent to perform the audit in 2008 and again in 2009, pledging he would conduct the audit in late 2009. Despite numerous attempts by the clients to persuade him to follow through on that promise, Daily did not complete the audit until April 2013, after receiving notice of a disciplinary investigation. Nor did he return the \$10,000.00 advance fee when the clients demanded he do so in 2012. Daily violated Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness), 1.4(a)(3) (a lawyer shall keep a client reasonably informed about a matter), 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information), and 1.16(d) (a lawyer shall refund advance fees upon termination of representation). Moreover, Daily misrepresented to his clients that he was safeguarding the \$10,000.00 fee in the settlement fund trust account pending completion of the audit. In fact, the balance of that account fell below zero before Daily performed the audit. Through this conduct, Daily violated Colo. RPC 1.15(a) (requiring lawyers to safeguard client funds) and 8.4(c) (proscribing conduct involving dishonesty, fraud, deceit, or misrepresentation).