

*People v. William Ellery Peters. 22PDJ043. July 20, 2022.*

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended William Ellery Peters (attorney registration number 11325) for one year, with sixty days to be served and the remainder to be stayed pending Peters's successful completion of an eighteen-month period of probation, with conditions. The suspension takes effect on August 24, 2022.

Peters was retained by a client to litigate a business matter. In November 2020, Peters and the client entered into a contingency fee agreement providing that Peters's fee would be the greater of his hourly fee or thirty percent of the gross amount collected. The fee agreement did not include a disclosure of the nature of other types of fee agreements, the nature of specially awarded fees, or the potential for an award of costs and attorney's fees to the opposing party, as then required under the rules of professional conduct.

Peters filed a complaint on the client's behalf in February 2021 and served disclosures under C.R.C.P. 26(a) in May 2021. Opposing counsel notified Peters of certain deficiencies in the disclosures and asked him to produce documents. When Peters did not, opposing counsel moved to compel mandatory disclosures and for sanctions. Peters did not timely file a response.

In early June 2021, the court entered a delay prevention order referencing its pretrial order, which gave Peters forty-two days to set the matter for trial. Because Peters had not yet set the case for trial, the court warned Peters that it would dismiss the case without prejudice unless Peters set the case. But Peters again failed to set the case for trial by the court's deadline. In mid-June 2021, opposing counsel moved to dismiss the complaint for failure to prosecute.

On June 30, 2021, the court granted opposing counsel's motions to compel and for sanctions, directing Peters to correct deficiencies in the mandatory disclosures. Peters did not notify his client of that order. The client later emailed Peters and asked him to withdraw from the case. In response, Peters emailed the client a letter attaching a notification certificate advising the court of Peters's withdrawal from the case. Peters claims he did not move to withdraw because he was unfamiliar with the local civil rules and did not know he needed leave of court to withdraw.

In early July 2021, the court denied Peters's notice of withdrawal. Peters then filed an untimely response to the motion to dismiss and an untimely certificate of compliance with mandatory disclosures. The same day, opposing counsel filed an attorney's fees affidavit. Peters did not respond. Instead, he moved to withdraw. The court later awarded attorney's fees against Peters's client, dismissed the case without prejudice, and denied the motion to withdraw as moot.

Through this conduct, Peters violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(b) (a lawyer must explain a matter so as to permit the client to make informed decisions regarding the representation); and Colo. RPC 1.5(c) (2020) (a lawyer's contingent fee agreement must conform to the requirements of Chapter 23.3 of the Colorado Rules of Civil Procedure).

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