

*People v. Benjamin William Hartford. 22PDJ011. August 29, 2023.*

The Presiding Officer approved the parties' revised stipulation to discipline and suspended Benjamin William Hartford (attorney registration number 35005) for one year and one day, effective November 1, 2023. To be reinstated to the practice of law in Colorado, Hartford must prove by clear and convincing evidence that he has been rehabilitated, has complied with all disciplinary orders and rules, and is fit to practice law.

In January 2018, Hartford filed a complaint on his client's behalf after a store clerk injured the client when the client attempted to rob the store. During the case, Hartford moved for a guardian ad litem for his client, who was incarcerated, without advising his client about the legal consequences of a guardianship and about whether the client's mother was an appropriate guardian. Hartford's motion contained no legal or factual bases, and the court denied it. During discovery in the case, Hartford did not diligently respond to the defendants' discovery requests. In addition, he did not timely and properly designate an expert witness or obtain and disclose the expert's opinions. When the defendant moved to strike the expert designation, Hartford did not respond, and the presiding court struck the expert designation. Hartford did not explain to his client or his client's mother—who held a power of attorney for the client and had signed Hartford's fee agreement for the representation, and who had been appointed as the client's guardian in a separate case—the order striking the expert designation, the viability of the case without an expert, and the settlement offer for \$30,000.00 that was likely the negative result of Hartford's failure to timely designate an expert. During the case, Hartford failed to obey the presiding court's case management order, including by not filing a proposed trial management order; not complying with two orders to set hearings; not filing exhibits and proposed jury instructions; and not complying with an order to produce the client's file to the client's mother. Hartford also failed to issue a writ for his client's presence at trial. These failures resulted in the court holding three additional hearings and caused the defendants to incur attorney fees.

In 2018, Hartford agreed to represent another client in multiple criminal cases. Hartford accepted \$2,000.00 from the client's mother but did not provide the client or the mother with a basis for the fee in writing within a reasonable time after the representation began. Hartford did not retain a copy of any fee agreement in the cases. Between September 2018 and February 2020, the client's mother paid Hartford \$25,800.00 for the representation. But Hartford did not complete substantive legal work during that time. Even so, Hartford removed the unearned funds from his trust account, and he did not keep required records showing whether the funds were earned and when they were removed from his trust account. In June 2020, Hartford moved to withdraw from the cases, which were pending and not prepared for trial.

Through this conduct, Hartford violated Colo. RPC 1.1 (a lawyer must competently represent a client); Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness in 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); 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); Colo. RPC 1.15D (a lawyer must maintain trust account records); Colo. RPC 3.4(c) (a lawyer must not knowingly disobey an obligation under the rules of a tribunal); and Colo. RPC 8.4(d) (it is professional misconduct for a lawyer to engage in conduct prejudicial to the administration of justice).

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