

*People v. Devon Michael Barclay. 22PDJ071. February 22, 2023.*

The Presiding Disciplinary Judge approved the parties' amended stipulation to discipline and suspended Devon Michael Barclay (attorney registration number 52663) for three years. The suspension, which takes into account several mitigating factors, is effective on February 22, 2023. To be reinstated to the practice of law after his suspension, Barclay 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.

Barclay filed a Chapter 7 bankruptcy petition for a couple without meeting with them to verify their details. The bankruptcy court granted the couple's application to pay the bankruptcy filing fee in installments but cautioned that failing to make the payments would lead to the case's dismissal and a 180-day bar on filing another petition. Soon after, Barclay informed the couple that they had been assigned "the worst trustee." He advised them to try to get their petition dismissed so they could refile it and get a different trustee. To do so, he advised them to not attend the required meeting of creditors, not pay further filing fees, and not submit other required bankruptcy paperwork. He did not tell them his advice was contrary to bankruptcy court orders or rules. Barclay's clients did not attend the creditors' meeting, during which Barclay stated that he did not know why his clients did not appear. The meeting was rescheduled. Barclay again advised his clients to not appear at the meeting, and he likewise failed to attend the meeting. Further, he did not respond to a document request made by the trustee's counsel.

The bankruptcy court ordered Barclay's clients to pay the filing fee installments; Barclay did not advise them of that order. Instead, he moved to dismiss the bankruptcy case, pointing to his clients' nonpayment. Meanwhile, the court granted a motion for turnover of the estate property, but Barclay did not inform his clients about the order, and his clients in turn did not comply with the order. Around that time, Barclay emailed one of the listed creditors in the couple's bankruptcy matter, attempting to enlist the creditor in a scheme to have his clients' petition dismissed. The creditor later forwarded Barclay's email to the trustee. Barclay's clients were held in contempt of court for failing to comply with the turnover order and were ordered to pay the trustee's associated fees and costs. Barclay accepted responsibility for the events and paid the fees from the contempt action. On January 10, 2023, Barclay and his law firm were suspended from the practice of law before the United States Bankruptcy Court for a three-year period.

Through this conduct, Barclay violated Colo. RPC 1.1 (a lawyer must competently represent a client); Colo. RPC 1.4(a)(3) (a lawyer must keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(b) (a lawyer must explain a matter so as to permit the client to make informed decisions regarding the representation); Colo. RPC 3.4(a) (a lawyer must not unlawfully obstruct another party's access to evidence); Colo. RPC 4.1(a) (a lawyer must not, in the course of representing a client, knowingly make a false statement of material law or fact to a third person); Colo. RPC 8.4(a) (a lawyer must not attempt to violate the Rules of Professional Conduct or knowingly induce others to do so); Colo. RPC 8.4(c) (a lawyer must not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and Colo. RPC 8.4(d) (a lawyer must not engage in conduct prejudicing the administration of justice). The case file is public per C.R.C.P. 242.41(a).