

People v. Brad Daybell. 15PDJ009. January 20, 2015.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Brad Daybell (Attorney Registration Number 40303) for eighteen months. The suspension takes effect February 24, 2015. To be reinstated, Daybell will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law.

Daybell represented a client in a custody matter that initially involved two related motions filed by the client's ex-husband: a motion to modify parenting time and decision-making responsibilities and a motion for contempt. Daybell did not give his client a fee agreement upon accepting a fee from her. During the representation, Daybell failed to review pertinent motions and orders. He did not review an order granting a motion to amend the contempt citation and neglected to prepare his client for the contempt hearing. Further, Daybell failed to review an affidavit of attorney's fees, so he lacked knowledge that his client's ex-husband was seeking such fees. When the court entered a judgment of attorney's fees, he did not so inform his client. Later, Daybell neglected to access the court's e-filing system and therefore did not realize that his client's ex-husband was seeking a major change in parenting time and decision-making responsibilities. Neither he nor his client appeared at a hearing on this motion. The court then drastically reduced his client's parenting time and essentially stripped her of parental decision-making authority. Daybell's conduct amounted to abandonment of his client.

In this matter, Daybell violated Colo. RPC 1.1 (a lawyer shall provide competent representation to a client); Colo. RPC 1.3 (a lawyer shall act with reasonable diligence and promptness when representing a client); Colo. RPC 1.4(a)(3) (a lawyer shall keep a client reasonably informed about the status of the matter); Colo. RPC 1.4(a)(4) (a lawyer shall promptly comply with reasonable requests for information); Colo. RPC 1.4(b) (a lawyer shall explain a matter so as to permit the client to make informed decisions regarding the representation); and Colo. RPC 1.5(b) (a lawyer shall communicate, in writing, the rate or basis of the fee and expenses within a reasonable time after commencing representation).

In a second matter, Daybell represented a client who owned two properties subject to foreclosure proceedings. Daybell filed a frivolous motion for a temporary restraining order and preliminary injunction on his client's behalf. He then filed bankruptcy petitions with the sole purpose of preventing foreclosure on the client's properties. Daybell thereby assisted his client in pursuing fraudulent actions. When the opposing party moved to dismiss one of the bankruptcy cases on grounds of bad faith, Daybell did not file a response, and the motion was granted.

Through these actions, Daybell violated Colo. RPC 1.2(d) (a lawyer shall not counsel a client to engage in criminal or fraudulent conduct); Colo. RPC 3.1 (a lawyer shall not assert frivolous claims); and Colo. RPC 8.4(c) (a lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation).