

People v. Harold E. Faletti. 18PDJ061. October 9, 2018.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and suspended Harold E. Faletti (attorney registration number 11801) for one year and one day, all to be stayed upon the successful completion of a two-year period of probation with conditions. The probation takes effect on November 13, 2018.

For about six months in 2015, Faletti employed a paralegal. Approximately one year later, the paralegal hired Faletti to assist her in two child support modification matters. Faletti and his client signed a written fee agreement for an hourly rate of \$185.00 an hour—a reduced rate from his normal fee of \$250.00. In one of these matters, the court concluded that Faletti lacked substantial justification to file a certain motion, and it ordered attorney's fees against Faletti and his client. Faletti acknowledges that he should not have filed this motion.

Later, the paralegal hired new counsel, who filed a motion for contempt against the paralegal's ex-husband. In conjunction with that motion, the new counsel contacted Faletti about attorney's fees, and Faletti provided an affidavit stating that he charged the paralegal \$250.00 per hour. That affidavit was attached to a request for attorney's fees relating to the contempt motion. Faletti also provided new counsel with an invoice reflecting an hourly rate of \$250.00, even though he had billed the paralegal \$185.00 and sent her an invoice reflecting this reduced rate. Faletti believes the affidavit might have been prepared by his staff, though he does not dispute that he likely reviewed it; he acknowledges that the stated rate in the affidavit was inaccurate, likely resulting from a "cut and paste job" from another document. Faletti has not received any money related to the request for attorney's fees.

During the period when Faletti represented the paralegal, he also agreed to represent her boyfriend in two criminal cases in which the paralegal was the named victim. Faletti advised them of the potential conflict of interest but did not secure their informed consent in writing. Faletti acknowledges that he would not have been able to represent the boyfriend at trial or to cross-examine the paralegal.

Through this conduct, Faletti violated Colo. RPC 1.7(a)(2) (a lawyer shall not represent a client involving a concurrent conflict of interest if there is a significant risk that the representation of one client will be materially limited by the lawyer's responsibilities to another client or a former client); Colo. RPC 1.7(b)(4) (a lawyer must obtain a client's informed consent in writing to a concurrent conflict of interest); 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).