

**People v. Christopher James Fry. 21PDJ019. September 21, 2021.**

Following a sanctions hearing, the Presiding Disciplinary Judge suspended Christopher James Fry (attorney registration number 47482) for eighteen months, effective October 26, 2021. To be reinstated to the practice of law in Colorado, Fry 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.

Fry did not adequately communicate with his client or exercise diligence in representing him. He charged the client excessive fees for work that remained uncompleted or that conferred little benefit. When his client terminated the representation, Fry did not cooperate with substitute counsel to act in his client's interests, nor did he refund to the client unearned funds. Instead, he knowingly filed frivolous pleadings with the court falsely asserting that his client had failed to pay legal fees.

Fry's conduct violated 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 1.5(a) (a lawyer shall not charge an unreasonable fee or an unreasonable amount for expenses; Colo. RPC 1.16(d) (a lawyer shall protect a client's interests upon termination of the representation, including by giving reasonable notice to the client and returning unearned fees and any papers and property to which the client is entitled); Colo. RPC 3.1 (a lawyer shall not assert frivolous claims); Colo. RPC 3.3(a)(1) (a lawyer shall not knowingly make a false statement of material fact or law to a tribunal); and Colo. RPC 8.1(b) (a lawyer shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority).

The case file is public per C.R.C.P. 251.31. Please see the full opinion below.

SUPREME COURT, STATE OF COLORADO  
ORIGINAL PROCEEDING IN DISCIPLINE BEFORE  
THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE  
1300 BROADWAY, SUITE 250  
DENVER, CO 80203

**Complainant:**  
THE PEOPLE OF THE STATE OF COLORADO

Case Number:  
**21PDJ019**

**Respondent:**  
CHRISTOPHER JAMES FRY, #47482

**OPINION AND DECISION IMPOSING SANCTIONS UNDER C.R.C.P. 251.19(c)**

Christopher James Fry (“Respondent”) did not adequately communicate with his client or exercise diligence in representing him. He charged the client excessive fees for work that remained uncompleted or that conferred little benefit. When his client terminated the representation, Respondent did not cooperate with substitute counsel to act in his client’s interests, nor did he refund to the client unearned funds. Instead, he knowingly filed frivolous pleadings with the court falsely asserting that his client had failed to pay legal fees. Respondent’s varied misconduct left his client worse off in all respects and warrants an eighteen-month suspension.

**I. PROCEDURAL HISTORY**

On March 23, 2021, the Colorado Supreme Court immediately suspended Respondent under C.R.C.P. 251.8.6 for his failure to cooperate in his disciplinary investigation.

On April 12, 2021, Jane B. Cox of the Office of Attorney Regulation Counsel (“the People”) filed a complaint with the Presiding Disciplinary Judge (“the Court”). The same day, the People sent a copy of the complaint to Respondent via certified and regular mail at his registered home address of 801 South Cherry Street, Apartment 264, Denver, Colorado 80246.<sup>1</sup> When the due date for Respondent’s answer had passed, the People sent him a letter on May 6, 2021, reminding him to answer.

On May 20, 2021, the People moved for entry of default. The Court granted the People’s default motion on June 14, 2021. Upon the entry of default, the Court deemed all

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<sup>1</sup> See Ex. 3.

facts set forth in the complaint admitted and all rule violations established by clear and convincing evidence.<sup>2</sup>

On August 27, 2021 the Court held a sanctions hearing under C.R.C.P. 251.15(b) via the Zoom videoconferencing platform. Cox represented the People; Respondent did not appear. During the hearing, the Court admitted the People's exhibits 1-22 into evidence and heard testimony from Christopher Simpson and lawyer Mark Chapleau.<sup>3</sup>

## II. ESTABLISHED FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to practice law in Colorado on November 3, 2014, under attorney registration number 47482. He is thus subject to the Court's jurisdiction in this disciplinary proceeding.<sup>4</sup>

On March 10, 2020, Christopher Simpson retained Respondent and Respondent's former law firm, Modern Family Law, to represent him in a post-decree modification of child support action in Jefferson County District Court. Simpson's ex-wife ("Wife") had filed a motion to modify child support on March 9, 2020, which was served on Simpson the same day. Respondent entered his appearance in the case on March 13, 2020.

Under the fee agreement, Simpson was to be charged twice monthly for the services rendered during the representation. Any remaining retainer balance, after payment of final fees and costs, would be refunded to Simpson. On March 10, 2020, Simpson gave Modern Family Law \$2,850.00 as a retainer, which he understood would cover ten hours of legal services at Respondent's rate under the terms of the fee agreement. On March 19, 2020, Modern Family Law charged Simpson's credit card \$344.50. Simpson contacted Modern Family Law to question why he was being charged again so soon after paying a retainer to the firm. Someone at the firm explained to Simpson that the advance retainer was held in trust as a security deposit, and that the retainer would be refunded to Simpson at the conclusion of the representation. Modern Family Law then charged Simpson's credit card \$878.50 on April 6, 2020.

The twenty-one-day deadline to respond to Wife's motion to modify child support elapsed around March 30, 2020. Respondent failed to respond to Wife's motion by the deadline. The court issued a case management order on April 13, 2020, which noted that Simpson had not filed a response but that more information was necessary to rule on Wife's pleading. Respondent submitted Simpson's response to the motion to modify child support on April 22, 2020, more than three weeks late.

The parties' mandatory financial disclosures were due to be filed and exchanged under C.R.C.P. 16.2(e)(2) around April 20, 2020. But Respondent failed to file Simpson's sworn financial statement or his certificate of compliance with mandatory financial

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<sup>2</sup> See C.R.C.P. 251.15(b); *People v. Richards*, 748 P.2d 341, 346 (Colo. 1987).

<sup>3</sup> The Court permitted Chapleau to testify via telephone rather than via Zoom. See Ex. 1.

<sup>4</sup> See C.R.C.P. 251.1(b).

disclosures with the court at any point during the representation. Modern Family Law did, however, charge Simpson's credit card \$1,309.00 on April 21, 2020.

The court's case management order reinforced the deadline for exchange of financial disclosures; it also instructed the parties to provide C.R.C.P. 16.2(e) disclosures to the other party at least 7 days before mediation and to bring the disclosures to the mediation session. Simpson asked Respondent to send him the template sworn financial statement form on several occasions in April 2020. Each time Respondent made an excuse for why he had forgotten to do so previously. At 10:42 p.m. on April 30, 2020, Respondent's paralegal sent Simpson a link to complete his sworn financial statement form in a specific software program. She informed Simpson that his sworn financial statement was already past due and there could be legal consequences for his lack of compliance.

In haste, Simpson completed the data entry in the form to the best of his ability. By the next day—which he believed to be the filing deadline—Simpson submitted two revisions to his sworn financial statement to be included in the filing. The information Simpson entered into the software program was immediately available for Respondent to generate Simpson's sworn financial statement. Simpson provided Respondent all of the financial disclosure documents that he understood were required, and Respondent did not request any additional financial documents from Simpson.

The parties attended mediation on May 11, 2020. Respondent failed to prepare for mediation. As one example, Respondent did not have a copy of the sworn financial statement that Simpson completed, and Simpson had to email it to Respondent for reference. Simpson learned during the mediation session that Respondent had failed to file his sworn financial statement with the court and had also failed to provide any of Simpson's mandatory financial disclosure documents to Wife's counsel as required. The only financial document provided to Wife was Simpson's September 2019 paystub, which Simpson himself provided in February 2020. The parties failed to resolve the disputed issues during mediation.

On May 15, 2020, Wife, through her counsel, moved for sanctions under C.R.C.P. 16.2(j). The motion for sanctions sought \$1,375.00 in attorney's fees for the failed mediation and Wife's counsel's time in drafting the motion for sanctions. The motion further requested that Simpson be prohibited from providing any additional late financial disclosures and that the court calculate the new child support obligation based on Wife's documentation and Simpson's September 2019 paystub.

By Wife's calculation, based upon the documentation available, Simpson's child support would increase from \$798.00 per month to \$1,338.00 per month. Wife's counsel attached as exhibits to the motion for sanctions all of the email communications with Respondent, evidencing counsel's fruitless efforts to obtain Simpson's financial disclosures. The email exhibits show that in response to Wife's counsel's inquiry about the delinquent disclosures, Respondent stated in an email on Friday, May 1, 2020: "We've been collecting

that data over the last 2-3 days, I'll have to check with my paralegal how long it will take to complete the Sworn Financial Statement, but I would anticipate that it will be completed no later than Monday.”<sup>5</sup> But Respondent failed to provide the sworn financial statement or disclosure documents on that day. Wife’s counsel followed up two more times before the scheduled mediation, with no response from Respondent at all.

Shortly after the failed mediation session, Simpson sought new counsel and terminated Respondent’s representation on May 21, 2020. Simpson intended to dispute Respondent’s billing, and he was concerned that after the transition to new counsel Modern Family Law would continue to charge his credit card for charges that he would also dispute. Accordingly, Simpson attempted to work with his bank to stop payment on the authorization to Modern Family Law.

Simpson’s efforts were not successful, and on May 21, 2020—the day that Respondent was substituted off of the case—Modern Family Law billed his credit card two more times, once for \$381.50 and once for \$2,850.00. The charge for \$2,850.00 was an unauthorized replenishment of Simpson’s initial retainer. Modern Family Law then charged Simpson’s credit card again on June 4, 2020, for \$288.50.

After Simpson terminated Respondent’s representation, Simpson’s subsequent counsel, Mark Chapleau, sought Respondent’s cooperation to produce email correspondence or other communications showing what financial disclosures, if any, had been provided to Wife, to defend Simpson against the pending motion for sanctions. The email correspondence between Respondent and Chapleau shows that Respondent was slow to respond or completely nonresponsive to Chapleau’s time-sensitive requests.

On June 22, 2020, Respondent filed a notice of attorney’s lien, a motion to reduce the lien to judgment, and an affidavit of attorney’s fees and costs, which attached Simpson’s last two unredacted billing statements. Those filings represented that Simpson “incurred and failed to pay a total of \$3,138.50 from April 16, 2020, through May 31, 2020.”<sup>6</sup> Respondent also submitted with the filings a billing statement dated May 31, 2020. The statement indicated that Simpson owed the firm \$288.50 to bring Simpson’s security deposit retainer balance back up to \$2,850.00.

In fact, at the time Respondent filed the notice of the attorney’s lien, Simpson did not owe the firm any money. As of the May 31, 2020, billing statement on which Respondent’s filings of June 22, 2020, were purportedly based, Simpson had \$2,561.50 remaining in trust with Modern Family Law, and the representation had been terminated. This amount increased to \$2,850.00 following the charge to Simpson’s credit card on June 4, 2020. As of June 22, 2020, Simpson had paid a total of \$8,902.00 to Modern Family Law, including a replenishment of his initial \$2,850.00 retainer deposit. Further, Modern Family Law had already charged the \$288.50 retainer shortage to Simpson’s credit card on June 4, 2020.

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<sup>5</sup> Compl. ¶ 32.

<sup>6</sup> Compl. ¶ 43; Ex. 16 at 100.

As a result, Modern Family Law owed Simpson a retainer balance refund on June 22, 2020; Respondent had no basis in fact to file the notice of attorney's lien or his motion to reduce the lien to judgment. Moreover, those documents contained statements that falsely alleged Simpson had failed to comply with his obligations under the fee agreement.

Chapleau immediately contacted Respondent to demand that he withdraw the notice and the motion. Respondent sent Chapleau an email on June 23, 2020, in which he stated:

So after some investigation it looks like this may have been a financing mistake. I'm waiting on a call back from the head of finance and I don't understand what happened. I will keep you in the loop, but as we are withdrawn, we may need to file a joint motion to withdraw or strike that motion, I'm not sure, I've never actually had to do that.

But, I feel really bad because they were very aggressive, so I am just not sure. However, we did just transition to a new billing program, so that may be a possible explanation, I do not know, I do not touch the accounting, I only enter my hours.<sup>7</sup>

Respondent did not attempt to withdraw the notice or the motion, however. Nor did he make any effort to correct the misrepresentations contained in those filings. Rather, on June 30, 2020, Respondent filed a notice of satisfaction of judgment, release, and waiver. That filing included the following representations:

4. On June 22, 2020, [Simpson] satisfied the Judgment to the firm's satisfaction.
5. The firm hereby and forever releases [Simpson] from the Judgment.
6. Undersigned counsel authorizes the Clerk of Court to enter a full and final satisfaction of Judgment entered in this matter on June 30, 2020.<sup>8</sup>

But Simpson did not "satisfy the judgment" on June 22, 2020. As of that date, Simpson owed no debt and there was no judgment to be satisfied. In fact, Modern Family Law held in trust Simpson's funds, which were actually owed to him as a refund. Respondent's statements perpetuated the false notion that Simpson had failed to pay his legal bills and owed money to Modern Family Law. Respondent's statements were also misleading because they suggested that due to the notice of attorney's lien and motion to reduce the lien to judgment, Simpson had eventually paid to Modern Family Law the money it falsely claimed Simpson owed.

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<sup>7</sup> Compl. ¶ 52.

<sup>8</sup> Compl. ¶ 55; Ex. 18.

Chapleau filed a request for attorney's fees on July 2, 2020, seeking sanctions against Modern Family Law under C.R.S. § 13-17-102(4) in the form of "all attorney's fees associated with [the firm's] false assertion of a lien with the Court."<sup>9</sup> Nicholas Tootalian of Modern Family Law filed a response on July 23, 2020. In that response, Tootalian defended Respondent's actions by asserting that Simpson had initiated a dispute through his credit card company over \$3,231.50 (of the total \$8,902.00 Modern Family Law charged) and explaining that the lien sought to protect Modern Family Law pending the dispute. Tootalian alleged that Simpson's dispute of the charges was "erroneous and likely fraudulent."<sup>10</sup> Tootalian claimed that Modern Family Law had successfully defended against the dispute and that "Mr. Simpson presently has a positive balance on file with Modern Family Law and said balance shall be refunded to Mr. Simpson in the manner and at the time described in his fee agreement."<sup>11</sup>

Regarding a retainer balance at the conclusion of the representation, the fee agreement states, "[a]ny such refund due will be issued following a full billing cycle in which no new charges were incurred."<sup>12</sup> Modern Family Law used twice monthly billing cycles. Substitution of counsel had been completed before the billing cycle that ended on May 31, 2020. The next full billing cycle following termination of the representation ended on June 15, 2020, and the billing dispute with Simpson's credit card company had been resolved, according to Tootalian, on June 26, 2020. The next full billing cycle following resolution of the dispute ended on July 15, 2020. By July 23, 2020, Respondent had been withdrawn as Simpson's counsel for sixty-three days. But Modern Family Law continued to charge Simpson fees for the filing of its own notice and motion to reduce lien to judgment and its notice of satisfaction of judgment. Modern Family Law also charged Simpson for responding to his notice and request for attorney's fees.

At the child support modification hearing on September 3, 2020, the Court awarded attorney's fees to Wife and against Simpson as a sanction under C.R.C.P. 16.2(j) due to Respondent's failure to produce Simpson's sworn financial statement and mandatory financial disclosures. As of the filing of the People's complaint, Simpson's request for attorney's fees as a sanction against Modern Family Law remained pending.

Through this misconduct, Respondent violated eight Colorado Rules of Professional Conduct:

- Respondent violated Colo. RPC 1.3, which requires a lawyer to act with reasonable diligence, by failing to timely submit Simpson's response to the motion to modify child support; failing to timely complete Simpson's mandatory financial disclosures; and failing to prepare for the mediation.

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<sup>9</sup> Compl. ¶ 59; Ex. 19 at 113.

<sup>10</sup> Compl. ¶ 62.

<sup>11</sup> Compl. ¶ 62.

<sup>12</sup> Compl. ¶ 64.

- Respondent violated Colo. RPC 1.4(a)(3), which requires a lawyer to keep a client reasonably informed about the status of case, when he did not adequately communicate with Simpson about the deadline to complete mandatory financial disclosures.
- Respondent violated Colo. RPC 1.4(a)(4), which requires a lawyer to promptly comply with reasonable requests for information, when he failed to promptly reply to Wife's counsel's request for information about the status of Simpson's financial disclosures; when he failed to promptly provide Simpson's financial disclosures to Wife after the failed mediation session; and when he failed to promptly comply with Chapleau's requests to forward his communications with Wife's counsel.
- Respondent violated Colo. RPC 1.5(a), which provides that a lawyer shall not charge or collect unreasonable fees, by charging Simpson to prepare his sworn financial statement and financial disclosures even though Respondent never filed those documents with the court or exchanged them with Wife's counsel; by collecting fees for appearing at a mediation session for which he was unprepared; by billing Simpson \$8,902.00 for entering his appearance and for filing an untimely response to the motion to modify while providing no other benefit; and by charging Simpson for preparing and filing the notice of attorney's lien, the motion to reduce lien to judgment, the affidavit for attorney's fees, and the notice of satisfaction of judgment, all of which lacked merit.
- Respondent violated Colo. RPC 1.16(d), which requires a lawyer to take reasonably practicable steps on termination to protect a client's interest, when Respondent failed to promptly and reasonably communicate with Chapleau to provide information from the client file; and when he failed to promptly return Simpson's unearned retainer funds and allowed Simpson's credit card to be charged for an unauthorized retainer replenishment.
- Respondent violated Colo. RPC 3.1, which provides that a lawyer shall not assert a claim unless there is a basis in law and fact for doing so that is not frivolous, when he filed a notice of attorney's lien and a motion for reduce the lien to judgment, both of which lacked any basis in fact; and when he filed a notice of satisfaction, which also lacked a basis in fact.
- Respondent violated Colo. RPC 3.3(a)(1), which provides that a lawyer shall not knowingly make a false statement of material fact to a court, by making false statements in his notice of attorney's lien and motion to reduce the lien to judgment; by failing to correct the false statements when they were made known to him; and by making additional false statements of material fact in the notice of satisfaction of judgment.

- Respondent violated Colo. RPC 8.1(b), which forbids lawyers from knowingly failing to respond to a lawful demand for information from a disciplinary authority, when he failed to cooperate with the People in their investigation and failed to participate in this disciplinary proceeding.

## **SANCTIONS**

The American Bar Association *Standards for Imposing Lawyer Sanctions* (“ABA Standards”)<sup>13</sup> and Colorado Supreme Court case law guide the imposition of sanctions for lawyer misconduct.<sup>14</sup> When imposing a sanction after a finding of lawyer misconduct, the Court must consider the duties the lawyer violated, the lawyer’s mental state, and the actual or potential injury the lawyer’s misconduct caused. These three variables yield a presumptive sanction that the Court may adjust based on aggravating and mitigating factors.

### ***ABA Standard 3.0 – Duty, Mental State, and Injury***

**Duty:** Respondent failed to honor the cardinal duties of diligence, communication, and loyalty that he owed to his client, Simpson. He also violated his obligations to the judicial system to act with candor and to bring only meritorious claims or contentions, and he disregarded his duty as a professional to act with integrity and with responsiveness to regulatory authorities.

**Mental State:** The order of default establishes that Respondent knowingly made false statements of fact to the domestic relations court, knowingly failed to correct his false statements of material fact, and knowingly failed to respond to a lawful demand for information from a disciplinary authority. The Court likewise concludes that Respondent committed the remaining misconduct with a knowing state of mind.

**Injury:** Respondent’s misconduct jeopardized Simpson’s legal interests and harmed Simpson financially. As Simpson recalled, when Respondent failed to timely respond to Wife’s motion to modify child support and failed to submit Simpson’s financial disclosures, Wife’s counsel “ran with that and used it for leverage” in filing a motion for sanctions. Ultimately, Simpson was sanctioned \$1,300.00 to cover Wife’s counsel’s fees for bringing the sanctions motion. Simpson then had to pay Chapleau additional fees to defend against and unwind the legal damage occasioned by Respondent’s misconduct.<sup>15</sup>

Respondent’s initial fecklessness while he served as Simpson’s counsel, coupled with his later frivolous and baseless filings, including his notice of attorney’s lien and notice of satisfaction of judgment, also tainted Simpson’s credibility in the eyes of the court. As Simpson explained, Wife’s counsel portrayed him as a “deadbeat dad” who refused to provide financial disclosures and to pay his former counsel, which he feared led the court to

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<sup>13</sup> Found in ABA Annotated Standards for Imposing Lawyer Sanctions (2d ed. 2019).

<sup>14</sup> See *In re Roose*, 69 P.3d 43, 46-47 (Colo. 2003).

<sup>15</sup> Modern Family Law issued a refund of \$2,026.69 in late August 2020. See Ex. 7.

believe that he was not financially responsible. Simpson concluded that the money he had paid Respondent “was money down the drain,” because legally he would have been “better off if [he] had done it [him]self.” Simpson also recounted that Respondent’s misconduct was, for him, a “source of intense stress,” embarrassment, and anger.

Respondent’s misconduct also had other harmful ripple effects. Respondent injured Wife by forcing her to expend time, effort, and money to compel production of Simpson’s disclosures and his sworn financial statement. Respondent negatively affected the parties’ ability to settle, as his failure to comply with disclosure obligations had sown seeds of distrust between them.<sup>16</sup> He burdened the judicial system when he disregarded his obligation to act as a conduit between his client and opposing counsel, necessitating a ruling on Wife’s motion to compel, and his frivolous collections efforts threatened to waste judicial resources. Finally, as both Simpson and Chapleau attested, Respondent harmed the legal profession’s reputation by shirking the duties he owed to his client and to the judicial system.

#### **ABA Standards 4.0-7.0 – Presumptive Sanction**

The presumptive sanction in this case is suspension. Respondent’s client-centered misconduct, including his failure to act diligently and to communicate, is governed by ABA Standard 4.42, which provides that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes the client injury or potential injury. ABA Standard 6.12 presumptively addresses Respondent’s knowing false statements to the court; that Standard calls for suspension when a lawyer knows that false statements or documents are submitted to the court but takes no remedial action, causing injury or potential injury to a party or causing an adverse or potentially adverse effect on the legal proceeding. Suspension is also the presumptive sanction for Respondent’s violations of Colo. RPC 3.1 and Colo. RPC 8.1(b) under ABA Standard 6.22, which applies when a lawyer knows that she or he is violating a court order or rule, causing injury or potential injury to a client or a party or interference or potential interference with a legal proceeding. Finally, ABA Standard 7.2 calls for suspension when a lawyer knowingly engages in conduct that violates a professional duty—here, charging unreasonable fees and failing to protect client interests on termination of the attorney-client relationship—and, as a result, causes injury or potential injury to a client, the public, or the legal profession.

#### **ABA Standard 9.0 – Aggravating and Mitigating Factors**

Aggravating circumstances include any considerations or factors that may justify an increase in the degree of the presumptive sanction to be imposed, while mitigating circumstances may warrant a reduction in the severity of the sanction.<sup>17</sup> The People advance for the Court’s consideration four aggravating factors, three of which the Court finds present here: Respondent’s pattern of misconduct, multiple offenses, and refusal to

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<sup>16</sup> See Ex. 22 at 126.

<sup>17</sup> See ABA Standards 9.21 & 9.31.

acknowledge the wrongful nature of his conduct.<sup>18</sup> The Court also finds that Respondent's misconduct was aggravated because he submitted frivolous and baseless filings concerning his attorney's fees with a dishonest and selfish motive: to collect additional unearned money from his client.<sup>19</sup> The Court can give Respondent mitigating credit only for his lack of prior discipline.<sup>20</sup>

### **Analysis Under ABA Standards and Colorado Case Law**

The Court recognizes the Colorado Supreme Court's directive to exercise discretion in imposing a sanction and to carefully apply aggravating and mitigating factors,<sup>21</sup> mindful that "individual circumstances make extremely problematic any meaningful comparison of discipline ultimately imposed in different cases."<sup>22</sup> Though prior cases are helpful by way of analogy, the Court is charged with determining the appropriate sanction for a lawyer's misconduct on a case-by-case basis.

The People request a significant served suspension in this matter, lengthy enough to require Respondent to petition for reinstatement. Case law supports this request for Respondent's client-centered violations alone. For example, the Colorado Supreme Court suspended a lawyer for one year and one day in *People v. Rishel* based on similar misconduct in two client matters.<sup>23</sup> In one matter, the lawyer failed to notify his client about a hearing on motions to modify child support and visitation and to hold the client in contempt.<sup>24</sup> The client learned of the hearing by chance just two days before it was scheduled and hired emergency replacement counsel, but the lawyer refused to refund unearned fees, provide a requested accounting, or withdraw.<sup>25</sup> In the second client matter, the lawyer failed to respond to a client's request to return his file, provide an accounting, and refund fees.<sup>26</sup>

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<sup>18</sup> ABA Standards 9.22(c), (d), and (g). The People urge the Court to find in aggravation under ABA Standard 9.22(e) Respondent's bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of disciplinary authorities. The Court declines to do so. Respondent's failure to cooperate in this disciplinary proceeding is addressed by the Colo. RPC 8.1(b) charge, and the People have provided no evidence that Respondent otherwise intentionally acted in bad faith.

<sup>19</sup> ABA Standards 9.22(b).

<sup>20</sup> ABA Standard 9.32(a).

<sup>21</sup> See *In re Attorney F.*, 2012 CO 57, ¶ 19; *In re Fischer*, 89 P.3d 817, 822 (Colo. 2004) (finding that a hearing board had overemphasized the presumptive sanction and undervalued the importance of mitigating factors in determining the needs of the public).

<sup>22</sup> *In re Attorney F.*, ¶ 20 (quoting *In re Rosen*, 198 P.3d 116, 121 (Colo. 2008)).

<sup>23</sup> 956 P.2d 542, 542 (Colo. 1998).

<sup>24</sup> *Id.* at 543.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*; see also *People v. Paulson*, 930 P.2d 582, 583-84 (Colo. 1997) (suspending a lawyer who had defaulted for one year and one day for, among other things, neglecting client matters, failing to communicate, failing to deliver funds or other property to clients, and failing to render a full accounting); *People v. Price*, 929 P.2d 1316, 1320 (Colo. 1996) (suspending a lawyer for one year and one day for, among other things, neglecting client matters, failing to communicate with clients, and failing to hold client property separate); *People v. Barr*, 818 P.2d 761, 763 (Colo. 1991) (suspending a lawyer for one year and one day for, among other things, neglecting a client matter and failing to promptly return property or funds to which the client was entitled).

Respondent's knowing false statements of material fact to a tribunal likewise warrant a meaningful period of suspension. The Court looks to *People v. Wotan*.<sup>27</sup> There, a lawyer committed a range of misconduct that included filing a false certificate of review in a medical malpractice action; the Colorado Supreme Court remarked that the false filing "by itself would justify a period of suspension."<sup>28</sup> In a similar case, a lawyer was found to have made misrepresentations to a court by signing another lawyer's name to multiple filings in a style different from his own signature.<sup>29</sup> The lawyer was sanctioned for this misconduct and other ethical violations with a six-month suspension.<sup>30</sup>

These cases suggest that a suspension of one year and one day is appropriate for Respondent's initial mishandling of Simpson's case, while another several-month period of suspension is warranted for his false filings. In this case, the Court chooses to add these periods together without any overlap, prompted largely by indignation that Respondent not only would knowingly submit to a tribunal filings that contain misrepresentations but also would do so in selfish pursuit of collecting factitious fees from his former client.<sup>31</sup> The Court thus finds that Respondent should be suspended for a period of eighteen months.

### **III. CONCLUSION**

Lawyers owe duties both to clients and to the courts. Respondent acted in dereliction of both duties by neglecting his client's representation, leading to sanctions against his client, and by knowingly making false statements to a court in order to collect unearned fees. His misconduct should be met with a suspension of eighteen months.

### **IV. ORDER**

The Court therefore ORDERS:

1. **CHRISTOPHER JAMES FRY**, attorney registration number **47482**, will be **SUSPENDED** from the practice of law for a period of **EIGHTEEN MONTHS**. The

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<sup>27</sup> 944 P.2d 1257, 1263 (Colo. 1997).

<sup>28</sup> *Id.*

<sup>29</sup> *People v. Reed*, 955 P.2d 65, 66-67 (Colo. 1998).

<sup>30</sup> *Id.*; see also *People v. Maynard*, 219 P.3d 430, 431 (Colo. O.P.D.J. 2008) (suspending a lawyer for one year and one day, all but sixty days stayed on a two-year period of probation due to mitigating circumstances, because the lawyer failed to timely file an appellate brief, then knowingly and falsely backdated her brief and certificate of mailing and made false statements when responding to a motion to dismiss her brief as untimely); *In re Dynan*, 98 P.3d 444, 446 (Wash. 2004) (suspending for six months a lawyer who submitted to a court declarations for attorney's fees and copies of bills for legal services that had been altered in order to obtain a larger attorney's fees award).

<sup>31</sup> This approach is backed by the ABA Standards, which counsels that "[t]he ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations; it might well be and generally should be greater than the sanction for the most serious misconduct." See ABA Annotated Standards for Imposing Lawyer Sanctions xx.

**SUSPENSION SHALL** take effect only upon issuance of an “Order and Notice of Suspension.”<sup>32</sup>

2. To the extent applicable, Respondent **SHALL** promptly comply with C.R.C.P. 251.28(a)-(c), concerning winding up of affairs, notice to parties in pending matters, and notice to parties in litigation.
3. Respondent also **SHALL** file with the Court, within fourteen days of issuance of the “Order and Notice of Suspension,” an affidavit complying with C.R.C.P. 251.28(d), requiring an attorney to file an affidavit with the Court setting forth pending matters and attesting, *inter alia*, to notification of clients and other jurisdictions where the attorney is licensed.
4. The parties **MUST** file any posthearing motions **on or before Tuesday, October 5, 2021**. Any response thereto **MUST** be filed within seven days.
5. The parties **MUST** file any application for stay pending appeal **on or before Tuesday, October 12, 2021**. Any response thereto **MUST** be filed within seven days.
6. Respondent **SHALL** pay the costs of this proceeding. The People **SHALL** file a statement of costs **on or before Tuesday, October 5, 2021**. Any response thereto **MUST** be filed within seven days.

DATED THIS 21<sup>st</sup> DAY OF SEPTEMBER 2021.

/s/ William R. Lucero

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WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

Copies to:

Jane B. Cox Office of Attorney Regulation Counsel	Via Email <a href="mailto:j.cox@csc.state.co.us">j.cox@csc.state.co.us</a>
Christopher James Fry Respondent 801 South Cherry Street, Apt. 264 Denver, CO 80246	Via First-Class Mail & Email <a href="mailto:cjfry@me.com">cjfry@me.com</a>
Cheryl Stevens Colorado Supreme Court	Via Email

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<sup>32</sup> In general, an order and notice of sanction will issue thirty-five days after a decision is entered under C.R.C.P. 251.19(b) or (c). In some instances, the order and notice may issue later than thirty-five days by operation of C.R.C.P. 251.27(h), C.R.C.P. 59, or other applicable rules.