

SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION,
FIRST DEPARTMENT

Matter of Cardillo

123 A.D.3d 147 (1st Dep't 2014) · No. M-2841 · Decided October 14, 2014

SUMMARY

The New York Supreme Court, Appellate Division, First Department considered reciprocal discipline against Cathy C. Cardillo based on a public reprimand imposed by the Supreme Court of New Jersey. The misconduct involved entering into an agreement restricting her practice of law as part of settling a landlord-tenant dispute, in violation of New Jersey RPC 5.6(b), a rule substantially equivalent to New York rules. The court granted the disciplinary petition and publicly censured respondent.

CASE DETAILS

COURT	Supreme Court of the State of New York, Appellate Division, First Department
WRITING FOR THE COURT	Luis A. Gonzalez, Presiding Justice; Rolando T. Acosta; Leland G. DeGrasse; Helen E. Freedman; Rosalyn H. Richter
JURISDICTION	New York
DECIDED	October 14, 2014
DOCKET	M-2841
DISPOSITION	other
PROCEDURAL POSTURE	The Departmental Disciplinary Committee petitioned for reciprocal discipline based on a public reprimand imposed on respondent by the Supreme Court of New Jersey.
STANDARD OF REVIEW	In reciprocal disciplinary proceedings, the respondent may defend only on the grounds of lack of notice and opportunity to be heard, infirmity of proof, or that the foreign misconduct would not constitute misconduct in New York. The court gives significant weight to the discipline imposed by the originating jurisdiction.
PRECEDENTIAL VALUE	Published intermediate appellate opinion; precedential within the First Department subject to ordinary New York appellate authority rules.
PARTIES	Departmental Disciplinary Committee for the First Judicial Department v. Cathy C. Cardillo

TOPICS

landlord tenant contracts appellate procedure

PRACTICE AREAS

attorney discipline professional responsibility reciprocal discipline landlord-tenant law
settlement agreements

QUESTIONS PRESENTED

1. Whether reciprocal discipline should be imposed based on the public reprimand entered by the Supreme Court of New Jersey.
2. Whether respondent's conduct in agreeing to restrict her right to practice law as part of a settlement constituted professional misconduct in New York.
3. Whether New York should impose a sanction different from the New Jersey public reprimand.

HOLDINGS

1. Reciprocal discipline was warranted because respondent received notice and an opportunity to be heard in New Jersey, the record established her misconduct, and she did not establish any permissible defense to reciprocal discipline.
2. Entering into an agreement restricting a lawyer's right to practice law as part of settling a private controversy constitutes professional misconduct in New York.
3. The New Jersey public reprimand warranted equivalent discipline in New York, namely public censure.

KEY QUOTATIONS

*"In reciprocal disciplinary matters "this Court accords significant weight to the discipline imposed by the jurisdiction where the charges were originally brought" (*2)*

*"a lawyer is prohibited from "offering or making ... an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a controversy between private parties." (*2)*

FACTUAL BACKGROUND

Respondent represented tenants in a New Jersey rent-control dispute and negotiated a settlement that provided the tenants with cash and rent credits totaling \$150,000. Contemporaneously, she entered into an agreement with opposing counsel and the opposing parties' principals restricting her from representing clients adverse to them or their affiliates. New Jersey disciplinary authorities found that the practice restriction was part of the settlement and violated New Jersey RPC 5.6(b), resulting in a public reprimand.

PROCEDURAL HISTORY

Respondent was reprimanded in New Jersey after disciplinary bodies found that she entered into an agreement restricting her right to practice law as part of settling a landlord-tenant dispute. The New York Committee served

a reciprocal-discipline petition, but respondent did not respond. The Appellate Division reviewed the record, found due process and sufficient proof, determined that the conduct constituted misconduct in New York, and imposed public censure.

DISPOSITION

other

CASES CITED

- In re Cardillo, 212 N.J. 486, 57 A.3d 1098 (2012)
- Matter of Jaffe, 78 A.D.3d 152, 158 (1st Dep't 2010)
- Matter of Jarblum, 51 A.D.3d 68, 71 (1st Dep't 2008)
- Matter of Power, 3 A.D.3d 21, 24 (1st Dep't 2003)
- Matter of Maiorino, 301 A.D.2d 53, 56 (1st Dep't 2002)
- Matter of Rogge, 51 A.D.3d 367 (1st Dep't 2008)
- Matter of Hoffman, 34 A.D.3d 1 (1st Dep't 2006)

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