

SUPREME COURT OF WYOMING

Board of Professional Responsibility, Wyoming State Bar v. Stacy E. Casper

2014 WY 22 (Wyo. 2014) · No. D-14-0003 · Decided February 19, 2014

SUMMARY

The Wyoming Supreme Court accepted a stipulated recommendation suspending Stacy E. Casper from the practice of law for 30 days and assessing costs. The court found violations involving unreasonable legal fees, misrepresentation in filing a lien statement, and improper disclosure of confidential former-client information.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Marilyn S. Kite, Chief Justice
JURISDICTION	Wyoming
DECIDED	February 19, 2014
DOCKET	D-14-0003
DISPOSITION	approved
PROCEDURAL POSTURE	The Wyoming Supreme Court considered a stipulated attorney-discipline report and recommendation for a thirty-day suspension.
STANDARD OF REVIEW	The Supreme Court independently determines the appropriate discipline, giving due consideration to the Board's findings and recommendations and basing its determination on the evidence presented to the Board.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Board of Professional Responsibility, Wyoming State Bar v. Stacy E. Casper

TOPICS

administrative law

remedies

family law procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Casper's billing practices violated Wyoming Rule of Professional Conduct 1.5 by imposing unreasonable fees.
2. Whether Casper's filing of a lien statement against property owned by her former client's ex-husband, together with an inaccurate billing statement, violated Wyoming Rule of Professional Conduct 8.4(c).
3. Whether Casper's filing of confidential billing records violated Wyoming Rule of Professional Conduct 1.9(c).
4. What discipline was appropriate for the stipulated violations.

HOLDINGS

1. A contractual provision permitting minimum billing increments is not inherently unreasonable or unethical, but a lawyer may not use such increments abusively, bill for work not performed, double-bill for the same activity, or fail to exercise billing judgment to exclude excessive, redundant, or unproductive time.
2. An attorney may not file a lien against property in which the client has no ownership interest or authority to encumber, and filing an inaccurate lien statement containing unreasonable or false billing information constitutes professional misconduct involving misrepresentation.
3. A lawyer violates Rule 1.9(c) by filing confidential client billing records when the disclosure is not necessary or otherwise permitted to establish a legitimate fee claim, particularly when the claimed fees are not legally or factually legitimate.
4. The Wyoming Supreme Court is the ultimate decision-maker in attorney-discipline matters and independently determines the appropriate sanction based on the evidence presented to the Board.

KEY QUOTATIONS

"Billing for work not done is a clear violation of Rule 1.5's prohibition of making an agreement for, charging, or collecting an unreasonable fee." (¶ 10)

"The reasonableness of a fee is not measured solely by examining its value at the outset of the representation; indeed an otherwise-reasonable fee can become unreasonable if the lawyer fails to earn it." (¶ 12)

"Billing for legal services . . . should not be a merely mechanical exercise. . . . A reasonable fee can only be fixed by the exercise of judgment, using the mechanical computations simply as a starting point" (¶ 14)

"[P]reservation of a client's confidences has been described as 'the bedrock principle of the Anglo-American legal system.'" (¶ 21)

FACTUAL BACKGROUND

Casper represented a client in a divorce and child-custody proceeding under a fee agreement providing for fifteen-minute minimum billing increments and authorizing a lien on the client's property. She billed for work

not performed, double-billed for certain activities, and used the minimum increment abusively, resulting in unreasonable fees. After withdrawing from the representation, she filed a lien statement against real property owned by the client's ex-husband, without notifying him, and attached inaccurate billing information and confidential client records.

PROCEDURAL HISTORY

The Wyoming State Bar Board of Professional Responsibility investigated Casper's conduct after she filed a lien statement against property owned by her former client's ex-husband. Casper stipulated to violations of Wyoming Rules of Professional Conduct 1.5, 1.9(c), and 8.4(c), and the Board recommended a thirty-day suspension. The Supreme Court reviewed the Board's record, approved and adopted the recommendation as modified, and imposed additional remedial and educational conditions.

DISPOSITION

approved

CASES CITED

- In re Clark, 613 P.2d 1218, 1221 (Wyo. 1980)
- Attorney Grievance Comm'n of Maryland v. Walman, 374 A.2d 354, 361 (Md. 1977)
- Bd. of Prof'l Responsibility v. Davidson, 2009 WY 48, 205 P.3d 1008 (Wyo. 2009)
- State Bd. of Law Examiners v. Brown, 53 Wyo. 42, 77 P.2d 626 (1938)
- Mendicino v. Whitchurch, 565 P.2d 460 (Wyo. 1977)
- Meyer v. Norman, 780 P.2d 283, 288 (Wyo. 1989)
- In re Hellerud, 714 N.W.2d 38, 41 (N.D. 2006)
- In re O'Brien, 29 P.3d 1044, 1048 (N.M. 2001)
- Attorney Grievance Comm'n of Maryland v. Garrett, 46 A.3d 1169, 1178 (Md. 2012)
- Lee v. LPP Mortg. Ltd., 2003 WY 92, ¶ 21, 74 P.3d 152, 160 (Wyo. 2003)
- Bevan v. Fix, 2002 WY 43, ¶¶ 48, 53, 42 P.3d 1013, 1027, 1029 (Wyo. 2002)
- Hensley v. Eckerhart, 461 U.S. 424 (1983)
- UNC Teton Exploration Drilling, Inc. v. Peyton, 774 P.2d 584, 594-95 (Wyo. 1989)
- Sue Davidson, P.C. v. Naranjo, 904 P.2d 354, 356 (Wyo. 1995)
- Wyo. State Treasurer ex rel. Worker's Comp. Div. v. McIntosh, 557 P.2d 743, 747 (Wyo. 1976)
- Sheridan Commercial Park, Inc. v. Briggs, 848 P.2d 811, 815 (Wyo. 1993)
- Ringolsby v. Johnson, 2008 WY 127, ¶ 23, 193 P.3d 1167, 1171 (Wyo. 2008)