SUPREME COURT OF INDIANA

In the Matter of Steven B. Geller

777 N.E.2d 1099 (Ind. 2002) · No. 49S00-0008-DI-460 · Decided November 4, 2002

SUMMARY

The Indiana Supreme Court found Steven B. Geller guilty of four counts of attorney misconduct involving excessive fees, mishandling client and third-party funds, misrepresentation, improper limitation of malpractice liability, delayed payment of liens, and retaliation against a former client. The court ordered that he be suspended from practicing law for at least twelve months, effective December 10, 2002, with eligibility to petition for reinstatement.

CASE DETAILS

COURT	Supreme Court of Indiana
JURISDICTION	Indiana
DECIDED	November 4, 2002
DOCKET	49S00-0008-DI-460
DISPOSITION	other
PROCEDURAL POSTURE	Attorney-discipline proceeding arising from the Indiana Supreme Court Disciplinary Commission's verified complaint and the report of a court-appointed hearing officer.
STANDARD OF REVIEW	The Supreme Court reviewed the hearing officer's report and the evidence concerning the alleged disciplinary violations.
PRECEDENTIAL VALUE	Published Indiana Supreme Court disciplinary order

TOPICS

remedies · appellate procedure

PRACTICE AREAS

legal ethics · attorney discipline · professional responsibility

QUESTIONS PRESENTED

1. Whether the respondent committed the charged violations of the Indiana Rules of Professional Conduct.
2. What disciplinary sanction was appropriate for the misconduct found.

HOLDINGS

1. The respondent committed attorney misconduct in four counts by charging an unreasonable fee, improperly prospectively limiting malpractice liability, failing to safeguard and promptly distribute client and third-party funds, delaying payment of subrogation claims, converting funds, making misrepresentations, and using former-client information to the client's disadvantage.
2. The respondent was suspended from the practice of law for not fewer than twelve months, effective December 10, 2002, with eligibility to petition for reinstatement after the suspension.

KEY QUOTATIONS

> *"For the misconduct found herein, this Court now finds that the respondent should be suspended from the practice of law for a period of not fewer than twelve (12) months, effective December 10, 2002, at the conclusion of which the respondent may petition this Court for reinstatement to the practice of law under Ind. Admission and Discipline Rule 23(4)."* (777 N.E.2d at 1099)

FACTUAL BACKGROUND

Geller charged an excessive fee in a workers' compensation matter, used language purporting to limit his malpractice liability without the client's independent representation, commingled or converted client and third-party funds, delayed payment of health-care-provider and insurer claims, and made misrepresentations concerning those payments. He also threatened to disclose a former client's child-molesting conviction after the client threatened to file a disciplinary grievance.

PROCEDURAL HISTORY

The Disciplinary Commission charged Steven B. Geller with six counts of attorney misconduct. After an evidentiary hearing, the appointed hearing officer found misconduct on four counts. The Indiana Supreme Court reviewed the report, adopted the misconduct findings, and imposed a suspension from the practice of law.

DISPOSITION

other

OPINION

In Re Geller 777 N.E.2d 1099

PER CURIAM.

777 N.E.2d 1099 (2002) In the Matter of Steven B. GELLER. No. 49S00-0008-DI-460. Supreme Court of Indiana. November 4, 2002.

ORDER FINDING MISCONDUCT AND IMPOSING DISCIPLINE

Upon review of the report of the hearing officer appointed by this Court to hear evidence on the Disciplinary Commission's Verified Complaint for Disciplinary Action, we find that the respondent engaged in attorney misconduct. Facts: The Commission charged the respondent with six counts of misconduct. We find, as did the hearing officer, that the respondent is guilty of misconduct in four counts. First, we find that respondent charged a fee in a worker's compensation case in excess of that set by statute; included in his disbursement statement, for a client who was not independently represented, language purporting to release the respondent from liability for malpractice; failed to hold money owed to the client and the client's health care provider separate from his own; failed to pay the client's health care provider from the settlement funds for many months; converted client and third party funds, and misrepresented to the client both that he had paid, and the amount paid to, a health care provider. In a separate case, we find that the respondent failed, for one year, to pay an insurer's subrogation claim out of proceeds recovered from a tortfeasor. In another instance, the respondent sought to limit his professional liability through language in his disbursement statement and failed to maintain sufficient funds in his trust account to pay an insurer's subrogation lien and delayed paying the lien for several years. In retaliation for a client's threat to file a disciplinary grievance, the respondent threatened to reveal the former client's conviction for child molesting to the client's fellow inmates in prison. Violations: By the conduct set forth above, the respondent violated: Ind. Professional Conduct Rule 1.5(a), which mandates that an attorney's fee be reasonable; Prof.Cond.R. 1.8(h), which prohibits an attorney from making an agreement prospectively limiting the attorney's liability to a client for malpractice unless permitted by law and the client is independently represented; Prof.Cond.R. 1.9(b), which prohibits an attorney from using information relating to the representation to the disadvantage of the former client; Prof. Cond.R. 1.15(a), which requires attorneys to hold property of clients or third persons in the attorney's possession separate from the attorney's own property; Prof.Cond.R. 1.15(b), which commands that upon receiving funds or other property in which the client or a third person has an interest, promptly to notify the client or third person; Prof.Cond.R. 8.4(b), which provides that it is misconduct for an attorney to commit a criminal act that reflects adversely on the attorney's honesty, trustworthiness, or fitness as a lawyer in other respects; and Prof.Cond.R. 8.4(c), which prohibits engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. For the misconduct found herein, this Court now finds that the respondent should be suspended from the practice of law for a period of not fewer than twelve (12) months, effective December 10, 2002, at the conclusion of which the respondent may petition this Court for reinstatement to the practice of law under Ind. Admission and Discipline Rule 23(4).

*1100 The Clerk of this Court is directed to forward notice of this order to the respondent and his attorney, to the Indiana Supreme Court Disciplinary Commission, to the hearing officer, Hon. Raymond S. Robak, and to all other entities as provided in Admis.Disc.R. 23(3)(d).

All Justices concur.