

SUPREME COURT OF LOUISIANA

In re Jo Anne Fleming

970 So. 2d 970 (La. 2007) · No. 2007-B-0843 · Decided December 14, 2007

SUMMARY

The Louisiana Supreme Court considers consolidated attorney disciplinary proceedings against Jo Anne Fleming involving 42 counts of misconduct, including neglect and abandonment of client matters, failure to refund unearned fees, unauthorized practice of law, and failure to cooperate with disciplinary authorities. The disciplinary board found intentional conversion of client funds and recommended permanent disbarment, restitution or accounting, and payment of proceeding costs.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	December 14, 2007
DOCKET	2007-B-0843
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding arising from three consolidated sets of formal charges. The disciplinary board recommended permanent disbarment, and the Supreme Court of Louisiana independently reviewed the record and imposed permanent disbarment, restitution, accountings, and costs.
STANDARD OF REVIEW	The Supreme Court independently reviews the record in attorney disciplinary matters as the trier of fact and determines whether misconduct was proven by clear and convincing evidence. The manifest-error standard applies to the hearing committees' factual findings, although the court is not bound by the committees' or disciplinary board's findings and recommendations.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Office of Disciplinary Counsel v. Jo Anne Fleming

TOPICS

administrative law

agency adjudication

remedies

restitution

PRACTICE AREAS

legal ethics

attorney discipline

professional responsibility

QUESTIONS PRESENTED

1. Whether the record established by clear and convincing evidence that Fleming violated multiple Louisiana Rules of Professional Conduct.
2. What sanction was appropriate for Fleming's knowing and intentional misconduct, including whether the misconduct warranted permanent disbarment under Guideline 1 of the permanent disbarment guidelines.
3. Whether Fleming should be ordered to provide accountings, make restitution, and pay the costs of the disciplinary proceedings.

HOLDINGS

1. The record established that Fleming violated multiple Rules of Professional Conduct by neglecting client matters, failing to communicate, failing to comply with duties upon termination, failing to expedite litigation, failing to provide competent representation, failing to return unearned fees, engaging in prejudicial conduct, engaging in a conflict of interest, engaging in the unauthorized practice of law, and failing to cooperate with disciplinary investigations.
2. Permanent disbarment was warranted because Fleming repeatedly and intentionally converted client funds, causing substantial harm, and her conduct fell within Guideline 1 of the permanent disbarment guidelines.
3. Fleming was required to furnish complete accountings and full restitution to all persons who were subjects of the formal charges and to pay all costs and expenses of the proceedings.

KEY QUOTATIONS

"The record demonstrates that respondent knowingly and intentionally violated duties owed to her clients, the public, the legal system, and the profession, causing serious harm." (*981)

"Guideline 1 applies to "repeated or multiple instances of intentional conversion of client funds with substantial harm."" (*981)

"She must be permanently disbarred." (*982)

"Respondent is ordered to furnish complete accountings and full restitution to all persons subject of the formal charges." (*982)

FACTUAL BACKGROUND

Fleming represented numerous clients in family, criminal, property, administrative, class-action, and other matters, but repeatedly neglected cases, failed to communicate, failed to appear or take required action, and abandoned representations. She accepted substantial fees, often performed little or no work, and failed to account for or refund unearned fees, involving at least 39 clients and nearly \$165,000. She also failed to

cooperate with disciplinary investigations, engaged in a conflict of interest, and practiced law while on interim disability inactive status.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed four sets of formal charges totaling 44 counts. The first set was recommended for dismissal and was not further considered because the ODC did not object; the remaining three sets, totaling 42 counts, proceeded through separate hearing committees and were consolidated by the disciplinary board. The hearing committees found violations and recommended suspensions or disbarment, while the disciplinary board recommended permanent disbarment. The Supreme Court independently reviewed the record, upheld the misconduct findings, and permanently disbarred Fleming.

DISPOSITION

other

CASES CITED

- In re: Fleming, 871 So. 2d 1086 (La. 2004)
- In re: Deshotels, 863 So. 2d 507 (La. 2003)
- In re: Quaid, 646 So. 2d 343, 348 (La. 1994)
- Louisiana State Bar Ass'n v. Boutall, 597 So. 2d 444 (La. 1992)
- In re: Caulfield, 683 So. 2d 714 (La. 1996)
- In re: Pardue, 633 So. 2d 150 (La. 1994)
- Louisiana State Bar Ass'n v. Reis, 513 So. 2d 1173 (La. 1987)
- Louisiana State Bar Ass'n v. Whittington, 459 So. 2d 520 (La. 1984)
- In re Frank, 942 So. 2d 1050 (La. 2006)
- In re Shortess, 950 So. 2d 570 (La. 2007)
- In re: Gros, 871 So. 2d 1091 (La. 2004)
- In re: Morphis, 831 So. 2d 934 (La. 2002)
- In re: Fleming, 869 So. 2d 785 (La. 2004)
- In re: Pitre, 903 So. 2d 1130 (La. 2005)