

SUPREME COURT OF WISCONSIN

Office of Lawyer Regulation v. Fisher

330 Wis. 2d 37 (2010) · Decided December 9, 2010

SUMMARY

The Wisconsin Supreme Court grants the Office of Lawyer Regulation's motion to modify a prior disciplinary decision revoking Scott H. Fisher's law license. The court substitutes the Wisconsin Lawyers' Fund for Client Protection as the restitution payee in specified matters and adds \$500 in restitution for the K.K. client matter, concluding that no new claim for relief required additional service on Fisher, who had defaulted.

CASE DETAILS

COURT	Supreme Court of Wisconsin
JURISDICTION	Wisconsin
DECIDED	December 9, 2010
DISPOSITION	other
PROCEDURAL POSTURE	The Office of Lawyer Regulation moved to modify a prior lawyer-discipline decision revoking Scott H. Fisher's law license, seeking to substitute the Wisconsin Lawyers' Fund for Client Protection as payee for specified restitution awards and to add \$500 in restitution arising from the K.K. client matter.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Office of Lawyer Regulation v. Scott H. Fisher

TOPICS

default civil procedure remedies restitution

PRACTICE AREAS

legal ethics lawyer discipline civil procedure remedies

QUESTIONS PRESENTED

1. Whether OLR's modification motion asserted a new or additional claim for relief requiring service on Fisher despite his default.

2. Whether the court could modify the prior disciplinary decision to designate the Wisconsin Lawyers' Fund for Client Protection as payee and impose an additional \$500 restitution award for the K.K. matter.

HOLDINGS

1. No additional service of the modification motion was required because Fisher had defaulted by failing to appear and the motion did not assert a new or additional claim for relief.
2. The additional \$500 restitution request did not constitute a new or additional claim for relief; it was a form of discipline based on an ethical violation already alleged in the disciplinary complaint.

KEY QUOTATIONS

"In a lawyer disciplinary proceeding, restitution is a form of discipline." (330 Wis. 2d at 40)

"Because Attorney Fisher has defaulted by failing to appear, the OLR was not required to serve its modification motion on Attorney Fisher." (330 Wis. 2d at 40)

FACTUAL BACKGROUND

Fisher's law license had been revoked in an earlier disciplinary proceeding involving allegations that included taking unearned money from clients. The disciplinary complaint alleged facts concerning the K.K. client matter, but OLR inadvertently omitted K.K. from its original restitution request. The Wisconsin Lawyers' Fund for Client Protection had paid K.K. \$500, and OLR sought to require Fisher to reimburse the Fund.

PROCEDURAL HISTORY

The Wisconsin Supreme Court had previously revoked Fisher's license and ordered restitution. OLR subsequently filed a motion for modification. The court directed OLR to address service, OLR responded that Fisher had been served with the disciplinary complaint and that the modification motion had been mailed to his last-known address, and Fisher did not appear. The court granted the motion and modified the prior decision to designate the Fund as payee and include \$500 for the K.K. matter.

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Scott H. Fisher, 2010 WI 45, 324 Wis. 2d 745, 785 N.W.2d 321