

SUPREME COURT OF WISCONSIN

In the Matter of Disciplinary Proceedings Against Michele A. Tjader

2018 WI 96, 384 Wis. 2d 51, 918 N.W.2d 418 · No. 2017AP411-D · Decided October 16, 2018

SUMMARY

The Wisconsin Supreme Court reviewed an amended stipulation and referee's supplemental report in a lawyer disciplinary proceeding against Michele A. Tjader. The court publicly reprimanded Tjader for stipulated violations involving advance-fee notices and refunds, ordered her to submit any fee disputes to binding arbitration, and assessed \$3,298.19 in costs. Justice Ann Walsh Bradley dissented, joined by Justice Abrahamson, and Justice Dallet did not participate.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Wisconsin
DECIDED	October 16, 2018
DOCKET	2017AP411-D
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding reviewing a referee's supplemental report and an amended stipulation between the Office of Lawyer Regulation and the respondent attorney; no appeal was filed.
STANDARD OF REVIEW	A referee's findings of fact are affirmed unless clearly erroneous; conclusions of law are reviewed de novo. The Supreme Court may impose whatever sanction it sees fit regardless of the referee's recommendation.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; precedential
PARTIES	Office of Lawyer Regulation v. Michele A. Tjader

TOPICS

[appellate procedure](#) [remedies](#) [restitution](#) [standard of review](#)

PRACTICE AREAS

[legal ethics](#) [attorney discipline](#) [professional responsibility](#) [appellate procedure](#) [fee disputes and restitution](#)

QUESTIONS PRESENTED

1. Whether the referee's stipulated findings of misconduct should be adopted.
2. Whether dismissal of three counts of the OLR complaint was appropriate.
3. What level of professional discipline was appropriate for the established misconduct.
4. Whether restitution should be ordered.
5. Whether Tjader should be required to pay the full costs of the disciplinary proceeding.

HOLDINGS

1. The court adopted the referee's findings because no showing established that the findings, which were based on the parties' amended stipulation, were clearly erroneous, and concluded that Tjader violated the identified supreme court rules.
2. Dismissal of counts 1, 6, and 7 of the OLR complaint was appropriate.
3. A public reprimand was an appropriate sanction for Tjader's six established violations despite her prior disciplinary history.
4. Restitution was not required in this disciplinary proceeding.
5. Tjader was required to pay \$3,298.19 in proceeding costs and submit any fee dispute pursued by the grievants to binding fee arbitration.

KEY QUOTATIONS

"The court may impose whatever sanction it sees fit regardless of the referee's recommendation." (§ 12)

"IT IS ORDERED that Michele A. Tjader is publicly reprimanded for professional misconduct." (§ 19)

FACTUAL BACKGROUND

Michele A. Tjader represented three clients in 2013 and 2014 and received advance fees of \$3,500, \$4,500, and \$25,000, depositing the fees directly into her business account. At the conclusion of each representation, she failed to provide the notices and accounting required by former SCR 20:1.15(b)(4m)b and failed to refund unearned fees or provide sufficient information showing that no refund was owed, violating SCR 20:1.16(d). Tjader did not contest six misconduct counts, while the OLR sought dismissal of three counts. She had also received three prior reprimands.

PROCEDURAL HISTORY

The Office of Lawyer Regulation filed a nine-count complaint on March 7, 2017. After the respondent eventually answered, a referee was appointed and discovery and further investigation occurred. The parties stipulated to dismissal of three counts and no contest to six counts. The referee initially recommended substantial restitution, but after the OLR declined to seek restitution, the Supreme Court remanded for an amended stipulation addressing restitution and the basis for discipline. The referee then recommended adoption of the amended stipulation, which the Supreme Court reviewed under SCR 22.17(2).

DISPOSITION

other

CASES CITED

- In re Disciplinary Proceedings Against Tjader, 2002 WI 37, 252 Wis. 2d 94, 643 N.W.2d 87
- In re Disciplinary Proceedings Against Eisenberg, 2004 WI 14, 269 Wis. 2d 43, 675 N.W.2d 747
- In re Disciplinary Proceedings Against Widule, 2003 WI 34, 261 Wis. 2d 45, 660 N.W.2d 686
- In re Disciplinary Proceedings Against Nussberger, 2006 WI 111, 296 Wis. 2d 47, 719 N.W.2d 501
- In re Disciplinary Proceedings Against Rajek, 2015 WI 18, 361 Wis. 2d 60, 859 N.W.2d 439
- In re Disciplinary Proceedings Against Shepherd, 2017 WI 66, 376 Wis. 2d 129, 897 N.W.2d 44
- In re Disciplinary Proceedings Against Smead, 2013 WI 19, 345 Wis. 2d 625, 827 N.W.2d 81
- Matter of Medical Incapacity Proceedings Against Muwonge, 2017 WI 12, 373 Wis. 2d 173, 890 N.W.2d 575
- In re Disciplinary Proceedings Against Horsch, 2017 WI 105, 378 Wis. 2d 554, 905 N.W.2d 129

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