

*People v. Michael J. Davis*. 25PDJ21. April 10, 2025.

The Presiding Disciplinary Judge approved the parties' stipulation to discipline and suspended Michael J. Davis (attorney registration number 44287) from the practice of law for one year and one day, with three months to be served and the remainder to be stayed pending Davis's successful completion of a two-year period of probation, with conditions. The suspension takes effect May 15, 2025.

In 2023, the owner of an entity that was sued hired Davis, the entity's registered agent, to represent the entity in the case. Davis, who had handled other legal matters for the owner, did not communicate in writing his fees or the scope of the representation. Davis signed a waiver and acceptance of service on September 28, 2023, but he did not enter his appearance or answer the complaint on behalf of his client, the entity, before the answer was due. On October 19, 2023, the owner asked Davis whether he had filed an answer. Davis responded via text, "[o]h yeah. I will send you a copy." He never sent the owner a copy of an answer, as he never filed one. Nor did he correct his misstatement or advise the owner at the time that he had not answered the complaint.

On November 3, 2023, the plaintiff moved for entry of clerk's default, which the clerk entered three days later. On December 14, 2023, counsel for a co-defendant contacted Davis, who then checked the case docket and learned of the entry of default. But Davis did not inform the entity's owner about the entry of default until, at the earliest, December 29, 2023.

In January 2024, Davis moved to set aside default, including an affidavit from the entity's owner. The affidavit, which Davis drafted, stated that the owner instructed Davis to "wait and see what [the plaintiff] did next before doing anything." The owner later disputed that these were his instructions despite electronically signing the affidavit. Davis notarized the electronically signed affidavit, even though his notary licensure did not authorize him to notarize electronic signatures. In drafting the owner's affidavit, Davis did not advise the owner that such a statement could be contrary to the interests of the entity or could materially limit his ability to represent the entity based on his personal interest in establishing he did not neglect the litigation.

The court held a hearing on the motion to set aside default, and Davis argued that the entity's owner had instructed him not to answer the complaint. The court denied the motion. The day after the hearing, Davis emailed the owner but did not mention that the court had denied the motion. The owner later obtained the court from the court and terminated the representation.

Through this conduct, Davis violated Colo. RPC 1.3 (a lawyer must act with reasonable diligence and promptness); Colo. RPC 1.4(a)(3) (a lawyer must keep a client reasonably informed about the matter); Colo. RPC 1.5(b) (a lawyer must inform a client in writing about the lawyer's fees and the scope of the representation within a reasonable time after being retained, if the lawyer has not regularly represented the client); Colo. RPC 1.7(a)(2) (restricting the circumstances in which a lawyer may represent a client if the representation involves a concurrent conflict of interest); and Colo. RPC 8.4(c) (it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation). The case file is public per C.R.C.P. 242.41(a).